

**EXHIBIT E**

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UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK  
-----X  
NESTOR ALMONTE,  
  
PLAINTIFF,  
  
-against- Case No:  
14-CV-5951-(KPF)  
  
437 Morris Park, LLC, D/B/A F&T MANAGEMENT  
CO., 1195 SHERMAN AVE LLC, SHERMAN  
MANAGEMENT ASSOCIATES LLC, CHANINA KLAHR,  
KALMAN TABAK and ABRAHAM FINKELSTEIN,  
  
DEFENDANTS.  
-----X

DATE: January 26, 2015  
TIME: 11:09 A.M.

DEPOSITION of the Plaintiff,  
taken by the Defendant, pursuant to a Court  
Order and to the Federal Rules of Civil  
Procedure, held at the offices of Goldberg  
& Weinberger, 630 Third Avenue, New York,  
New York, before Evanguelia Galarza, a  
Notary Public of the State of New York.

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2 A P P E A R A N C E S:

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4 VALLI, KANE & VAGNINI  
Attorneys for the Plaintiff  
5 NESTOR ALMONTE  
600 Old Country Road, Suite 519  
6 Garden City, New York 11530  
BY: ROBERT P. VALLETTI, ESQ.

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9 GOLDBERG & WEINBERGER  
Attorneys for the Defendants  
437 Morris Park, LLC, D/B/A F&T  
10 MANAGEMENT CO., 1195 SHERMAN AVE LLC,  
SHERMAN MANAGEMENT ASSOCIATES LLC,  
11 CHANINA KLAHR, KALMAN TABAK and ABRAHAM  
FINKELSTEIN  
630 Third Avenue  
New York, New York 10017  
13 BY: STEWART WEINBERGER, ESQ.  
-and-  
14 ANNETTE ALETOR, ESQ.

15

16 ALSO PRESENT:  
Dennis Vargas - Spanish Interpreter  
17 Chanina Klahr  
Kalman Tabak

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## 2 F E D E R A L S T I P U L A T I O N S

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5 IT IS HEREBY STIPULATED AND AGREED by and  
6 between the counsel for the respective  
7 parties herein that the sealing, filing and  
8 certification of the within deposition be  
9 waived; that the original of the deposition  
10 may be signed and sworn to by the witness  
11 before anyone authorized to administer an  
12 oath, with the same effect as if signed  
13 before a Judge of the Court; that an  
14 unsigned copy of the deposition may be used  
15 with the same force and effect as if signed  
16 by the witness, 30 days after service of  
17 the original & 1 copy of same upon counsel  
18 for the witness.

19

20 IT IS FURTHER STIPULATED AND AGREED that  
21 all objections except as to form, are  
22 reserved to the time of trial.

23

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\* \* \* \*

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1 N. ALMONTE

2 D A N N I S V A R G A S, a Spanish  
3 interpreter, solemnly swore to translate  
4 the following questions from English to  
5 Spanish and answers from Spanish to  
6 English:

7

8 N E S T O R A L M O N T E, called as a  
9 witness, having been first duly sworn,  
10 through an interpreter, by a Notary Public  
11 of the State of New York, was examined and  
12 testified as follows:

13 EXAMINATION BY

14 MR. WEINBERGER:

15 Q. Please state your name for the  
16 record.

17 A. Nestor Almonte.

18 Q. What is your address?

19 A. 4536 Park Avenue, Apartment 12,  
20 Weehawken, New Jersey 07086.

21 Q. Good morning.

22 A. Good morning.

23 Q. I am going to ask you some  
24 questions. If you do not understand the  
25 question, please tell me. I will rephrase

1 N. ALMONTE

2 the question. If you answer the question,  
3 I am going to assume that you understood  
4 the question.

5 A. Thank you.

6 Q. Are you taking any medications  
7 now that will affect your ability to answer  
8 questions?

9 A. No.

10 Q. Is there any reason why you  
11 cannot tell the truth in response to  
12 questions I am going to ask you?

13 A. I will always answer the truth.

14 Q. Did you discuss the testimony  
15 you are about to give with anyone, other  
16 than your attorneys, in order to prepare  
17 for what you're going to say today?

18 A. No.

19 Q. Where were you born?

20 A. In the Dominican Republic.

21 Q. Did you go to school in the  
22 Dominican Republic?

23 A. Yes.

24 Q. What was the highest level of  
25 education you completed in the Dominican

1 N. ALMONTE

2 Republic?

3 A. High school.

4 Q. Did you graduate high school?

5 A. No.

6 Q. When did you come to the United  
7 States?

8 A. December of 1986.

9 Q. Did you go to school in the  
10 United States?

11 A. No.

12 Q. Are you married?

13 A. Yes.

14 Q. Who are you married to?

15 A. With Mildred Munoz.

16 Q. She has a different last name;  
17 is that correct?

18 A. Different from mine, yes.

19 Q. I am not inquiring -- it is not  
20 a personal inquiry. I am just trying to  
21 get the facts.

22 Are you legally married to  
23 Mildred Munoz?

24 A. Yes.

25 Q. Thank you.

1 N. ALMONTE

2 Do you have any children?

3 A. Three.

4 Q. What are their names, and what  
5 are their ages?

6 A. Nestor Almonte, 35.

7 Q. Go ahead.

8 A. Ashley Almonte, 22. Manuel  
9 Almonte, 21.

10 MR. WEINBERGER: Please mark  
11 this.

12 (Whereupon, the aforementioned  
13 document was marked as Defendants'  
14 Exhibit A for identification as of  
15 this date by the Reporter.)

16 Q. Take a look at this, please.

17 Can I ask you questions about  
18 it now? Are you ready?

19 MR. VALLETTI: Are you finished  
20 reviewing it, though? If you want to  
21 review it, review it, that's fine.

22 Q. Let me ask you this, have you  
23 ever seen this document before?

24 A. Yes.

25 Q. When was the first time you saw



1 N. ALMONTE

2 that document?

3 A. Well, a lot of them that are  
4 here were provided by me.

5 MR. VALLETTI: Are you talking  
6 about the exhibits?

7 Q. You're talking about the  
8 exhibits?

9 A. Yes.

10 Q. What about the body of the  
11 complaint, the non-exhibit part?

12 A. I had seen it, yes.

13 Q. Are you aware of claims that  
14 are being alleged in this case?

15 A. Yes.

16 Q. Did you work at 437 Morris Park  
17 Avenue?

18 A. Yes.

19 Q. When did you start working at  
20 437 Morris Park Avenue?

21 A. March of 2011.

22 Q. When did you stop working at  
23 437 Morris Park?

24 A. December 2nd of 2013.

25 Q. The amended complaint indicates

1 N. ALMONTE

2 that loan payments were deducted from your  
3 pay; is that correct?

4 MR. VALLETTI: Note my  
5 objection, please. You can answer.

6 A. I don't understand the  
7 question.

8 Q. Were there ever any loan  
9 payments deducted from your pay?

10 A. Yes.

11 Q. Did you ever sign documents  
12 related to receipt of a loan from the  
13 company?

14 A. No.

15 MR. WEINBERGER: Off the  
16 record.

17 (Whereupon, an off-the-record  
18 discussion was held.)

19 (Whereupon, the aforementioned  
20 document was marked as Defendants'  
21 Exhibit B for identification as of  
22 this date by the Reporter.)

23 Q. I'd like to show you what has  
24 marked as Defendant B. I'd like you to  
25 read that.

1 N. ALMONTE

2 A. I read it.

3 Q. Have you ever seen that  
4 document before?

5 A. Yes.

6 Q. Did you sign that document?

7 A. No.

8 Q. You didn't sign that document?

9 A. No.

10 Q. Is it your testimony -- I am  
11 going refer over here -- that this is not  
12 your signature, it says "Manuel Almonte"?

13 MR. VALLETTI: Note my  
14 objection, asked and answered. He  
15 has already answered.

16 Q. What about the one below it?

17 A. No.

18 MR. WEINBERGER: Please mark  
19 this.

20 (Whereupon, the aforementioned  
21 document was marked as Defendants'  
22 Exhibit C for identification as of  
23 this date by the Reporter.)

24 Q. I am going to show you what is  
25 marked as Exhibit C.

1 N. ALMONTE

2 Have you ever seen this before?

3 A. Yes.

4 Q. Is that your signature on the  
5 document?

6 A. No.

7 Q. Tell us, how did you see this  
8 document before?

9 A. When I requested a loan from  
10 the company, the loan was given to me under  
11 the super's name, which is my son. He is  
12 the one that signed.

13 Q. I didn't ask that.

14 MR. VALLETTI: You asked how he  
15 saw the paper.

16 Q. I asked how you saw -- I have a  
17 question for you.

18 You said you are familiar with  
19 this complaint; is that correct?

20 A. Yes.

21 Q. In here it says you're suing  
22 for monies illegally deducted from your  
23 pay?

24 A. Yes.

25 Q. Well, if you didn't sign for

1 N. ALMONTE

2 the loan, can you explain why monies were  
3 deducted from your pay?

4 A. The money was started to be  
5 deducted from my son's check who was the  
6 super. When I then started to be the super  
7 in April of 2013, the deduction then  
8 started on my pay.

9 Q. So, you would then concede that  
10 since it was deducted from somebody else's  
11 pay, not yours, that you have no claim for  
12 the money, for the deduction; is that  
13 correct?

14 MR. VALLETTI: Objection. I  
15 think that is a mischaracterization  
16 of what he just said. I will direct  
17 him not to answer that.

18 MR. WEINBERGER: It is not a  
19 valid basis.

20 MR. VALLETTI: If you can  
21 rephrase it.

22 MR. WEINBERGER: I will  
23 rephrase it.

24 Q. Are you suing for the deduction  
25 of pay for the time that the check was in

1 N. ALMONTE

2 Manuel Almonte's name? Are you suing for  
3 that?

4 A. No, that corresponds to him.

5 Q. So can you tell us then what is  
6 the nature of -- when was money deducted  
7 from your pay, the loans from your pay?

8 A. April of 2013.

9 Q. Do you know how much was  
10 deducted from your pay?

11 A. I don't have the exact amount  
12 in my mind right now.

13 Q. Can you give us a ballpark  
14 idea?

15 A. Each check -- they had deducted  
16 about \$50 from each check, but that's not  
17 an exact amount. It would vary sometimes.

18 Q. I am going to go back to the  
19 statement, just to be clear, from B and C.

20 Is it your testimony that your  
21 handwriting is not on this document?

22 A. It does not appear, no.

23 Q. So looking at the last name  
24 there, Almonte, that is not what you  
25 signed?

1 N. ALMONTE

2 MR. VALLETTI: Objection, asked  
3 and answered, but go ahead.

4 A. I did not sign it.

5 Q. Was were you present when this  
6 document was signed?

7 A. Yes.

8 Q. Where were you present? Where  
9 was it?

10 A. In Mr. Klahr's office.

11 Q. Who was in Mr. Klahr's office  
12 when they signed this document?

13 A. Mr. Klahr, Manuel Almonte, and  
14 myself.

15 Q. When did you start as a  
16 superintendent for 437 Morris Park Avenue?

17 A. As a superintendent in April of  
18 2013.

19 Q. Did you give the same answer at  
20 an unemployment hearing this past Friday  
21 when you were asked when you started as a  
22 superintendent?

23 A. It was a similar question, but  
24 not the same.

25 Q. So your testimony is that this

1 N. ALMONTE

2 past Friday you never testified that you  
3 were the superintendent in 2012 or 2011 at  
4 437 Morris Park Avenue?

5 MR. VALLETTI: Objection.

6 You can answer if you can. It sounds  
7 confusing.

8 A. I answered as to when I had  
9 started working with the company, which was  
10 in February of 2011. To be exact, it was  
11 the 11th.

12 Q. Just to be clear, you're  
13 denying that you said that testimony on  
14 Friday, this past Friday, at unemployment?

15 A. I never said that I had been a  
16 super in 2012.

17 Q. What about 2011? Did you say  
18 at unemployment that you were  
19 superintendent in 2011 at 437 Morris Park  
20 Avenue?

21 A. No, no.

22 Q. Let's go back.

23 Did you ever work at 1056  
24 Boyton Avenue in the Bronx?

25 A. Yes.



1 N. ALMONTE

2 Q. Before that, let me get -- I am  
3 sorry.

4 Before you started at 1056  
5 Boyton Avenue, where did you work?

6 A. I worked self-employed as a  
7 handyman doing jobs on my own.

8 Q. How long were you doing that  
9 for?

10 A. Since arriving into this  
11 country.

12 Q. Did you ever work for any  
13 company since arriving in this country  
14 before 1056 Boyton?

15 A. Yes.

16 Q. What companies did you work  
17 for?

18 A. I worked with a company that  
19 was called DEFO or D-E-F-O.

20 Q. DEFO?

21 A. DEFO.

22 Q. Thank you.

23 When did you work for DEFO  
24 Construction?

25 A. I don't know the name DEFO

1 N. ALMONTE

2 Construction. I know the name DEFO

3 Restoration.

4 Q. When did you work for DEFO

5 Restoration?

6 A. Approximately 1995.

7 Q. Until?

8 A. Until 1998.

9 Q. After that, what did you do  
10 after you left?

11 A. I then continued working as a  
12 handyman working on my own.

13 Q. Did your son work for DEFO  
14 Restoration?

15 MR. VALLETTI: Objection,  
16 Number 1, specify which son, and  
17 Number 2 --

18 MR. WEINBERGER: I'm going to  
19 ask either son.

20 MR. VALLETTI: Okay.

21 A. Impossible.

22 Q. Why? Either son, I asked.

23 A. He was only about 2 or 3 years  
24 old.

25 Q. When you say "he," who are you

1 N. ALMONTE

2 referring to?

3 A. Manuel Almonte.

4 Q. When did you start working at  
5 1056 Boyton? I want to go back there.

6 A. February of 2011.

7 Q. How long did you work there  
8 for?

9 A. Less than a month.

10 Q. Now, I would like to read  
11 paragraph 37 of the complaint and ask you  
12 if this is correct.

13 MR. WEINBERGER: Could you read  
14 paragraph 37?

15 THE INTERPRETER: I thought you  
16 were going to read it.

17 MR. WEINBERGER: I was, but you  
18 are going to have to translate it.  
19 You want me to read it, you translate  
20 to make it easier?

21 THE INTERPRETER: Yes.

22 Q. "As a handyman, Plaintiff  
23 worked five days a week, Monday through  
24 Friday, for 40 hours per week. Plaintiff  
25 received \$400 per week as a handyman."

1 N. ALMONTE

2 Is that correct?

3 A. Yes, that is correct.

4 Q. So you're not claiming any  
5 monies for the time you worked at 1056  
6 Boyton Avenue in this lawsuit; is that  
7 correct?

8 A. The claim is I would get paid  
9 by check under the super's name, the super  
10 would then cash the check at a cashier, and  
11 I would get the money cash. And the  
12 cashier would then charge an amount to cash  
13 that check, and that would be deducted.

14 Q. Please listen to the question.  
15 If you don't understand it, please tell me.

16 I am asking you, do you have  
17 any claim against the defendants for  
18 anytime you worked at 1056 Boyton Avenue?

19 A. No.

20 MR. VALLETTI: Put on the  
21 record Mr. Tabak has entered the room  
22 as well. Thank you.

23 Q. The complaint, in paragraph 38,  
24 says, "On or about early April 2011,  
25 defendants promoted Plaintiff to

1 N. ALMONTE  
2 superintendent apartment building located  
3 at the 437 Morris Park Avenue"; is that  
4 correct?

5 MR. VALLETTI: Note my  
6 objection. Are you talking about  
7 what is written or what he has  
8 testified to?

9 MR. WEINBERGER: What is  
10 written.

11 MR. VALLETTI: Okay.

12 A. I was moved to 437 Morris Park  
13 with the intentions of making me a super of  
14 that building.

15 Q. I am asking you to please  
16 answer the question. Is that statement  
17 correct or not correct that you just read?  
18 What the first paragraph says?

19 A. That is a confusing question.  
20 And I'll explain why. The reason being, as  
21 I said before, I was moved to 437 Morris  
22 Park to become the super, but I still  
23 didn't have my papers for authorization to  
24 work in the United States. Then Manuel  
25 Almonte was named the super.

1 N. ALMONTE

2 Q. I am not asking that. You seem  
3 to be answering that question all the time.  
4 Can you tell us why you keep saying about  
5 Manuel Almonte being the superintendent?

6 MR. VALLETTI: Object to the  
7 question. And if you seek  
8 clarification, ask him a clarifying  
9 question.

10 MR. WEINBERGER: I am asking  
11 him that question. I will withdraw  
12 that. I will withdraw that.

13 Q. Again, I am going to ask you,  
14 is this first sentence in paragraph 38 true  
15 or not? Just a question.

16 A. No.

17 Q. By the way, is there anything  
18 else you noticed in the complaint that you  
19 claim is not true?

20 MR. VALLETTI: Objection.

21 A. At this point, I don't know of  
22 anything else that is not true, as far as I  
23 know. And it's not so much as not being  
24 not true as it is as confusing.

25 Q. Before you started work even at

1 N. ALMONTE

2 Boynton Avenue, did you fill out an  
3 employment application?

4 MR. VALLETTI: Objection. Can  
5 you clarify with who did you fill  
6 that out with? When?

7 Q. With any of the defendants in  
8 this case.

9 A. For what date?

10 Q. Before you started to work at  
11 1056 Boynton Avenue?

12 A. No.

13 Q. What about before you started  
14 at 437 Morris Park?

15 A. No.

16 Q. I would like to show you what  
17 has been marked D. We will mark it.

18 (Whereupon, the aforementioned  
19 document was marked as Defendants'  
20 Exhibit D for identification as of  
21 this date by the Reporter.)

22 Q. Going back, I would like to  
23 show you what is marked as D, Exhibit D.  
24 Now on there it says, "Previous  
25 experience." Under that, in the middle of

1 N. ALMONTE

2 the page, it says, "Company name." What is  
3 that, what is that next to it? Can you  
4 just read the company name for me?

5 A. It says DeFore Construction.

6 Q. Do you know anything about that  
7 company, DeFore Construction?

8 A. No, not DeFore Construction.

9 Q. I am going to make a request  
10 that you produce your tax records, if you  
11 have them, going back for 2001 and '02 or  
12 any other documents referring to DEFO.

13 MR. VALLETTI: I'll just make  
14 an objection and note that any  
15 document requests please be put in  
16 writing so we can respond.

17 Q. So this DEFO Construction is  
18 different than the DEFO you testified about  
19 before?

20 A. It's different.

21 Q. It says in here, just looking  
22 at it again, that you worked from -- excuse  
23 me, somebody worked from 1995 to 2002. See  
24 that?

25 A. This is not my writing, and, as



1 N. ALMONTE

2 I said before, I worked for DEFO which  
3 doesn't have an R in it. And it's not  
4 construction, it's DEFO, the name was DEFO  
5 a restoration company.

6 Q. Now Manuel Almonte, your son,  
7 did not work for DEFO Construction,  
8 correct?

9 A. No.

10 Q. In fact, when you were -- you  
11 were interviewed by Mr. Klahr in February  
12 of 2011 for a position with the defendants?  
13 Yes? Were you interviewed by Mr. Klahr for  
14 a job?

15 A. Yes, I was interviewed.

16 Q. Did you tell Mr. Klahr that you  
17 lived at 1161 Stratford Avenue, Number 3K?

18 A. Yes.

19 Q. Was your cell phone number  
20 (917) 945-2366?

21 A. Yes.

22 Q. At that time, who was in the  
23 room with you when you interviewed with  
24 Mr. Klahr?

25 A. No, it wasn't a room. He

1 N. ALMONTE

2 interviewed me at his car in the street.

3 Q. When did that take place?

4 A. February of 2011.

5 Q. I would like to show you again,  
6 if you take at look at -- you have it in  
7 front of you.

8 Can you take a look at this  
9 document? Have you ever seen this document  
10 before?

11 A. I am confused, but this -- I  
12 know my son's signature appears at the end  
13 there, but this document isn't from the  
14 date that is written here.

15 Q. Can you tell us how do you know  
16 that?

17 A. This isn't my writing. I know  
18 that my son signed it on the bottom, and I  
19 know that these are the numbers as well,  
20 but I never recall seeing anything above  
21 that before. Ever.

22 Q. Do you have any idea how your  
23 son came to sign this document?

24 A. It is signed by him a long time  
25 ago, but it's possible when I told Mr. --

1 N. ALMONTE

2 that it was when I told Mr. Klahr that I  
3 didn't have my papers yet. So everything  
4 would need to be signed by my son, and I  
5 had to be like his shadow at the job.

6 MR. VALLETTI: Mind if we take  
7 a quick break, I have to talk to  
8 Nestor.

9 MR. WEINBERGER: Not about  
10 this. He is answering questions.

11 MR. VALLETTI: Okay, fine.

12 MR. WEINBERGER: I don't mind  
13 taking a break generally, but I just  
14 want to go through something.

15 Q. It says in here (indicating),  
16 the complaint, again, I am going to read  
17 this to you. "In April of 2011," it says  
18 in here "Mr. Munoz" -- I am referring to  
19 paragraph 41 -- "complained to defendants  
20 that he feared trouble with the Internal  
21 Revenue Service."

22 Do you know anything about  
23 that?

24 A. What paragraph are you speaking  
25 about?

1 N. ALMONTE

2 Q. Let's clarify something.

3 Are you related to Wilton

4 Munoz?

5 A. Yes.

6 Q. How are you related to him?

7 A. He is my brother-in-law.

8 Q. Now, it indicates in paragraph  
9 41 that Mr. Munoz complained to defendants  
10 in April of 2011?

11 A. Yes, I do recall that.

12 Q. Now going to paragraph 43, it  
13 says, "Defendants then told Plaintiff that  
14 in order for Plaintiff to keep his job,"  
15 meaning that apparently that you had  
16 already started to work at 437 Morris Park;  
17 is that correct?

18 A. I don't understand the  
19 question.

20 Q. Well, it indicates here that  
21 you had started to work, does it not, in  
22 paragraph 43 -- I am not arguing with you,  
23 I am just reading the language -- that you  
24 had started to work at Morris Park, 437  
25 Morris Park, and then the issue came up?

1 N. ALMONTE

2 A. And then that's -- when I went  
3 to Morris Park, then that aspect had  
4 stopped.

5 Q. What aspect had stopped?

6 A. To give the payments to me  
7 under the name Wilton Munoz.

8 Q. But this says you had started.  
9 Is this correct? Is this correct? It said  
10 you had started at 437 Morris Park when  
11 they came to you, quote/unquote, to change,  
12 to change the name to Manuel.

13 MR. VALLETTI: Note my  
14 objection.

15 Q. It is what it says, does it  
16 not? Which one? Is that statement  
17 accurate that to keep your job, defendants  
18 would hire Manuel's son?

19 A. Yes.

20 Q. So before then you were working  
21 under what name?

22 MR. VALLETTI: Objection.

23 A. With my name, Nestor Almonte.

24 Q. Have you ever heard of the  
25 word, by the way, Nestor Lopez?

1 N. ALMONTE

2 A. That is my maternal last name.

3 Q. I am going to go back to this.

4 Is it your testimony that, so  
5 it is clear, that you did not sign "Manuel  
6 Almonte," that is not your signature or  
7 that is not what you signed?

8 A. My son had signed it.

9 Q. And it was signed on 2/21/2011?  
10 Is that correct? That's when it was  
11 signed?

12 A. I don't remember the date, but  
13 there is a date there.

14 Q. The date is there, correct?

15 A. And what do you want to know  
16 about this?

17 Q. By the way, do you have any  
18 explanation how Mr. Klahr would have known  
19 about the name DEFO if you hadn't told him?

20 MR. VALLETTI: Objection.

21 To the extent you know you can  
22 answer.

23 A. Because I had introduced my son  
24 to him.

25 Q. In February 2011?

1 N. ALMONTE

2 A. When I started to work there at  
3 Morris Park.

4 Q. At Morris Park. What about  
5 1056 Boynton in February when you worked  
6 there?

7 A. I started at the beginning of  
8 February, I worked less than a month there,  
9 as I said, and then I was transferred to  
10 437 Morris Park.

11 Q. I will get to that in a second.

12 A. I don't have the exact date  
13 when I went over to Morris Park or crossed  
14 over to Morris Park. March.

15 Q. But it could have been April  
16 then; is that correct? 2011?

17 A. No, in April of 2011, I had  
18 already started as handyman at Morris Park.

19 Q. You started in April 2011 as a  
20 handyman. When did you become the super?

21 A. When I left Boynton at the end  
22 of February, around then, Mr. Klahr then  
23 brought me to Morris Park. As I said, he  
24 said, "Come with me, bring your tools." He  
25 then brought me to Morris Park. He told

1 N. ALMONTE

2 me, "From this point on, you're going to  
3 start working here." The one who was the  
4 super was Ernesto Hernandez.

5 MR. VALLETTI: That is correct.

6 A. He was the super at 437 Morris  
7 Park, so I was working with him for another  
8 three or four weeks more.

9 Q. So you became the super after  
10 Ernesto Hernandez left; is that correct?

11 A. Yes.

12 MR. VALLETTI: You can  
13 discuss --

14 Q. Can you tell us what your job  
15 was as the superintendent when you replaced  
16 Nestor? What your job was at 437 Morris  
17 Park when you replaced Nestor Hernandez?  
18 Could you just go over the duties?

19 MR. VALLETTI: Objection, I  
20 think you have the name wrong. It is  
21 not Nestor Hernandez.

22 Q. Whatever Hernandez. When you  
23 replaced that other guy?

24 MR. VALLETTI: I am trying to  
25 keep it clear.



1 N. ALMONTE

2 A. From the beginning, the company  
3 was looking for a super. That was the  
4 information that Wilton Munoz had given me,  
5 to be more specific about it. I worked at  
6 1056 Boynton taking instructions as a  
7 trial, then I was transferred to 437 Morris  
8 Park to start to get to know the building  
9 with the purpose that I would eventually  
10 become the super of that building.

11 Q. What were your job duties as  
12 superintendent of the building in May of  
13 2011? What were you supposed to do?

14 MR. VALLETTI: Objection. He  
15 testified he didn't become the super  
16 there.

17 MR. WEINBERGER: No objection  
18 to that. He said he did. He just  
19 said he did.

20 MR. VALLETTI: No, he didn't.  
21 You're wrong about that.

22 MR. WEINBERGER: The record  
23 speaks for itself.

24 MR. VALLETTI: Let the record  
25 speak. Clarify your question.

1 N. ALMONTE

2 MR. WEINBERGER: I asked the  
3 question. That is not a proper  
4 objection.

5 MR. VALLETTI: It is not the  
6 correct testimony. Move forward.

7 MR. WEINBERGER: No, I think he  
8 said that. He said he replaced --

9 Q. By the way, it was Ernest  
10 Torres you replaced?

11 A. Torres.

12 Q. That is the one you replaced as  
13 the superintendent?

14 A. Yes, Torres.

15 Q. What were your duties when you  
16 replaced Ernest Torres as the  
17 superintendent?

18 A. The work of every  
19 superintendent, which is to do maintenance  
20 for the building, following work orders,  
21 taking calls, any complaints by phone call.  
22 It didn't matter what time of day.

23 MR. VALLETTI: Guys, you have  
24 to stop talking. She is recording  
25 everything that is being said in the

1 N. ALMONTE

2 room.

3 A. In other words, it would be  
4 24 hours a day, seven days a week.

5 Q. I had a more mundane question.  
6 Let me try this.

7 As the superintendent, did you  
8 do maintenance repairs like fixing faucets?  
9 I am trying to get the simple stuff.

10 A. Yes, yes. As I said before,  
11 that is part of maintenance.

12 Q. That is what you did when you  
13 replaced Torres; is that correct?

14 A. All of those responsibilities  
15 of a superintendent.

16 Q. Let me go a little slower here.  
17 Break it down.

18 Were you given work orders or  
19 did you make work orders?

20 A. I would receive the work  
21 orders.

22 Q. What would you do with the work  
23 orders?

24 A. Fix whatever needed to be fixed  
25 on those work orders.

1 N. ALMONTE

2 Q. And you did that work yourself;  
3 is that correct?

4 A. Always accompanied by Manuel  
5 Almonte because he was, on paper, the  
6 superintendent of the building, so I was  
7 his shadow.

8 Q. So he was doing the repairs or  
9 you were doing the repairs?

10 A. I would be doing the repairs,  
11 showing him how to do those repairs so that  
12 the following time, he could do them.

13 Q. By the way, let's go back to  
14 your son. In 2011, he was in high school;  
15 is that correct?

16 A. Yes.

17 Q. So he was in high school, going  
18 full-time to high school, in April 2011?

19 A. Until he was named the super.

20 Q. Did he go to high school -- by  
21 the way, what year did he graduate high  
22 school?

23 A. He hasn't graduated yet. He is  
24 doing his GED.

25 Q. When did he stop going to high

1 N. ALMONTE

2 school?

3 A. A few weeks after having  
4 started being the super, because he  
5 couldn't do both things at the same time.  
6 So he had to leave school.

7 Q. I am going to ask you to  
8 produce his records, anything regarding  
9 high school and school records. And please  
10 tell us where he went to high school.

11 MR. VALLETTI: Just put it in  
12 writing, the request. And, also, at  
13 least one record has been produced  
14 for you guys in the prior production.

15 MR. WEINBERGER: I don't  
16 believe that.

17 Q. Tell us where he went to high  
18 school.

19 A. Columbus High School.  
20 Different schools.

21 Q. Where did he go to high school  
22 in 2011?

23 A. I don't have the name of the  
24 school in my mind right now.

25 Q. Can you tell us approximately

1 N. ALMONTE

2 where the school is located?

3 A. It was around Third Avenue.

4 Q. In the Bronx?

5 A. In the Bronx.

6 Q. Can you be a little more  
7 specific than Third Avenue?

8 A. It was around 149th, around  
9 there.

10 Q. Columbus High School. Do you  
11 know if Columbus High School is on Pelham  
12 Parkway in the Bronx?

13 A. Yes, yes.

14 Q. That is not near 149th Street  
15 in the Bronx, is it?

16 A. No, no, no. In 2011, he was at  
17 that school which I don't recall the name.  
18 After that, he moved to Columbus.

19 Q. That was in 2012? He moved to  
20 Columbus in 2012?

21 A. Yes.

22 Q. So he went to Columbus in 2012  
23 roughly?

24 A. Yes, yes.

25 Q. In 2012, did he go the whole

1 N. ALMONTE

2 year to high school in Columbus?

3 A. No.

4 Q. When did he drop out of  
5 Columbus High School?

6 A. It was weeks, just weeks  
7 because he started to fail in school  
8 because of the work.

9 Q. In 2012, he started to fail in  
10 school because of the work?

11 A. Yes, yes.

12 Q. Do you have any records of  
13 this, of his dropping out of school in  
14 2012?

15 A. Yes. Not with me, but yes.

16 MR. WEINBERGER: We would ask  
17 that these documents be produced and  
18 we will put it in writing.

19 MR. VALLETTI: Thank you.

20 Q. Did he go back to school in  
21 2013?

22 A. Yes, yes.

23 Q. Where did he go to school in  
24 2013?

25 A. I don't remember the name, but

1 N. ALMONTE

2 it's a school that works in conjunction  
3 with Co-Op Tech, and it's on 96th in  
4 Manhattan on the east side, 96th and Second  
5 Avenue. That is where he started his GED  
6 since he couldn't go back to high school.  
7 At the same time, he would be doing a tech  
8 school career.

9 Q. What hours did he do that when  
10 he was -- I am just talking about this  
11 school. I didn't get the name.

12 A. Co-Op Tech.

13 Q. What days of the week did he go  
14 to Co-Op Tech, and what were the hours he  
15 was there?

16 MR. VALLETTI: Objection.

17 If you can answer, that is fine.

18 A. Monday through Friday.

19 Q. What were his hours?

20 A. In the mornings he would have  
21 to attend the GED school, and then in the  
22 afternoons he would do the technical  
23 school. To be specific, he was taking  
24 classes, welding classes.

25 Q. So he would start in the



1 N. ALMONTE

2 morning around 9:00, to the best of your  
3 recollection?

4 A. When he returned to school  
5 after he had already left the job. He was  
6 not -- he did not leave the job. He was  
7 fired from the job.

8 Q. What date are you talking about  
9 in 2013 that he was fired from the job?

10 A. Around June.

11 Q. So he was fired from what job  
12 in June?

13 A. From April he changed from  
14 being superintendent to a handyman, so the  
15 time sheet was changed. And then he worked  
16 as a handyman for a month, more or less.

17 Q. Do you have documents in your  
18 possession showing that he worked as a  
19 handyman?

20 A. Yes.

21 Q. What are those documents? Can  
22 you describe them?

23 A. Some time sheets, time sheets.

24 Q. We are going to get back to the  
25 time sheets in a few minutes.

1 N. ALMONTE

2 Do you have any documents in  
3 your possession showing that he completed a  
4 work order as a handyman, or anything like  
5 that, to show that he did work as a  
6 handyman, other than these time sheets?

7 A. I am not sure. It's possible,  
8 I would have to check. Because there are  
9 the time sheets.

10 Q. A question. Did he get paid a  
11 salary when he handed in that time sheet?  
12 A wage, anything?

13 A. No.

14 Q. So it is your testimony that  
15 there is a time sheet that you filled out  
16 for the same month, and that Manuel filled  
17 out for the same month, is that correct, in  
18 2013?

19 A. One that I filled out with my  
20 name as a superintendent, and Manuel would  
21 fill one out as a handyman. A roving  
22 employee time sheet.

23 Q. He went to 1195 Sherman Avenue,  
24 too?

25 A. He would go there. He didn't

1 N. ALMONTE

2 work there steady, but he would go.

3 Q. I have a question. Do people  
4 sign work orders after they do the work?

5 A. The work order that is given to  
6 you for the week, the super has to sign it  
7 accepting the work.

8 Q. Is it true, did Mr. Klahr give  
9 you work orders in -- let's start with  
10 2013. Did Mr. Klahr give you work orders  
11 in 2013?

12 A. Yes.

13 Q. Now, on any occasion, did  
14 Mr. Klahr give -- and I would like you to  
15 specifically say when -- work orders to  
16 your son?

17 A. The work orders would be given  
18 to me, even for other buildings, which I  
19 would give to the supers. And then to the  
20 employees, I would then give them my own  
21 work order. I would write it out myself  
22 and give it.

23 Q. Do you have documents which say  
24 that Manuel Almonte was the handyman, was  
25 changed from a superintendent to a

1 N. ALMONTE

2 handyman?

3 A. The time sheets, the time  
4 sheets.

5 Q. Other than the time sheets, do  
6 you have document that says that?

7 A. Some work orders that I would  
8 sign when they were done.

9 Q. That you signed?

10 A. He would sign for the work that  
11 he did.

12 Q. Okay. Do you have any work  
13 orders that he signed, your son Manuel, for  
14 the work that he did? Yes or no?

15 A. Many, many.

16 Q. Do you have them in your  
17 possession?

18 A. I don't know if my lawyer may  
19 have them.

20 MR. VALLETTI: We produced  
21 some, but if you have more, we can  
22 produce more, make another  
23 production.

24 A. I have for the whole year.

25 MR. VALLETTI: We will give you

1 N. ALMONTE

2 more if we have them. We will give  
3 you that.

4 Q. For the whole year when?

5 A. Since he had worked, started  
6 working.

7 Q. Let's just go back to this,  
8 just to clarify. What hours did he go to  
9 these schools on 96th Street, that co-op,  
10 and then the tech school? What were those  
11 hours again?

12 MR. VALLETTI: Just note my  
13 objection. If we could break it down  
14 starting and giving a timeframe so we  
15 can get this all. Let's get it in a  
16 timeline so he is not confused as to  
17 what school you are talking about,  
18 when he is going, things like that.

19 MR. WEINBERGER: I am asking  
20 him in 2013. That is what I asked  
21 him.

22 Q. What time did he start to go to  
23 school, and what time did he end?

24 A. As I said before, when he went  
25 back into school for the GED and Co-Op

1 N. ALMONTE

2 Tech, he wasn't working anymore. He had  
3 already been fired. So his time there  
4 would be from 8:30, 9:00 in the morning  
5 until 3:30 in the afternoon. Because he  
6 didn't have work anymore.

7 Q. Who fired him?

8 A. Mr. Charlie Klahr.

9 Q. Were you present when he fired  
10 him?

11 A. Yes.

12 Q. What day was that exactly?

13 A. That was, like, in June of  
14 2013.

15 Q. By the way, who were the other  
16 handymen in June 2013 working in the  
17 building? Can you give us a list?

18 A. Which dates again?

19 Q. 2013.

20 A. I have the names.

21 Q. Spanish, Spanish, Spanish.

22 A. I don't have the names in my  
23 mind right now for 2013, those employees.  
24 I remember the porter.

25 Q. What was his name?

1 N. ALMONTE

2 A. Jose Gonzalez. I remember Juan  
3 Mendoza who was from Sherman and sometimes  
4 would do jobs at Morris Park. William, I  
5 don't remember the last name. Willie. I  
6 don't remember his last name.

7 Q. Anybody else?

8 A. There are several, but I don't  
9 have the names right now because the  
10 handymen would be moving from one building  
11 to another.

12 Q. Did your son move from one  
13 building to the other in that timeframe  
14 with these guys?

15 A. No. My son would be a shadow.  
16 I would either be his shadow or he would be  
17 mine.

18 Q. When he became the handyman, he  
19 became your shadow.

20 A. Once he was the handyman, he  
21 could do jobs on his own.

22 Q. What did you mean by the phrase  
23 "shadow"?

24 A. When he was the super, the work  
25 knowledge, I had it. That is why he would

1 N. ALMONTE

2 go do the jobs, but I would be present  
3 there with him. That was the agreement  
4 between Mr. Klahr, my son, and myself.

5 Q. When was that agreement done?

6 A. Since starting as a super in  
7 Morris Park Avenue in 2011.

8 Q. We are going to request that  
9 you produce, if we haven't already, all the  
10 documents regarding the time he was in  
11 Columbus High School in 2012.

12 A. Yes, it's possible.

13 Q. What hours did he go to high  
14 school in 2012?

15 A. It would vary because of the  
16 job. That's why he then had to leave  
17 school.

18 Q. I didn't ask that. Please  
19 listen to the question. I am not arguing  
20 with you. If you don't understand --

21 MR. VALLETTI: He said it  
22 varied.

23 Q. Is it your testimony that he  
24 didn't start at 8:00, 9:00 in the morning  
25 until he went to high school in 2012?



1 N. ALMONTE

2 A. It would vary. He wouldn't be  
3 able to go, or he would get there late, or  
4 he would have to leave early because he had  
5 to come in to work. It wasn't easy.

6 Q. Do you have a record of those  
7 hours that are, quote, varied?

8 A. The school has all the  
9 attendance for all the students.

10 Q. Now Columbus High School is  
11 about how far from 437 Morris Park Avenue,  
12 if you know?

13 A. Are you talking about bus,  
14 walking.

15 Q. How did he get there?

16 A. In public transportation.

17 Q. Buses?

18 A. Yes.

19 Q. How long did he tell you it  
20 would take to get to high school and come  
21 back?

22 A. I never asked. I don't think  
23 it took more than 15 minutes, 15,  
24 20 minutes.

25 Q. Each way?

1 N. ALMONTE

2 A. Yes, each way, each way.

3 Q. So in 2011, just go back to  
4 that, you're not sure of the high school he  
5 was in; is that correct?

6 A. No, because I was just doing  
7 work, so his mother was the one who knew  
8 more about that.

9 Q. You were doing work at 437  
10 Morris Park; is that correct?

11 A. Yes.

12 Q. You were doing the  
13 superintendent's job at 437 Morris Park in  
14 2011; is that correct?

15 MR. VALLETTI: Objection, asked  
16 and answered. He can answer to the  
17 extent he can.

18 A. Yes.

19 MR. WEINBERGER: Off the  
20 record.

21 (Whereupon, an off-the-record  
22 discussion was held.)

23 (Whereupon, a short recess was  
24 taken.)

25 Q. We ask you to produce any

1 N. ALMONTE

2 documents relating to your son's being in  
3 high school in 2011.

4 A. I will let my lawyer know.

5 Q. Now, you testified that you did  
6 things like work orders, you answered  
7 calls?

8 A. Yes.

9 Q. Did you identify yourself to  
10 anybody in 2011 as the superintendent at  
11 437 Morris Park Avenue?

12 A. Yes.

13 Q. Who did you identify yourself  
14 as a superintendent to in 2011?

15 A. With anyone that had to do with  
16 the business.

17 Q. You stated that you were the  
18 superintendent for 437 Morris Park?

19 A. Yes.

20 Q. Did you receive an apartment as  
21 superintendent when you started to work at  
22 437 Morris Park?

23 A. When I was then made the super.  
24 In the beginning, I was living in  
25 Stratford, then I would go there.

1 N. ALMONTE

2 Q. When did you get an apartment  
3 at 437 Morris Park?

4 A. Ernesto Torres, when he left  
5 the job, or he was fired or whatever, when  
6 that happened. But there needed to be some  
7 repairs done to the apartment. So I didn't  
8 move immediately into the apartment.

9 Q. Can you tell us approximately  
10 when you moved into the apartment?

11 A. Should be around the end of  
12 April or beginning of May. April, May.

13 Q. Of what year?

14 A. Of 2011.

15 Q. Who was your supervisor when  
16 you became the superintendent at 437 Morris  
17 Park?

18 A. Mr. Charlie Klahr, who is the  
19 manager.

20 Q. When did he become your  
21 supervisor?

22 A. Well, he is the one that gave  
23 me the job, and he was always my  
24 supervisor.

25 Q. You testified about that you

1 N. ALMONTE

2 received work orders?

3 A. Yes.

4 Q. Who did you get work orders  
5 from?

6 A. From Mr. Charlie Klahr.

7 Q. Why did Mr. Charlie Klahr give  
8 you the work orders from 437 Morris Park  
9 Avenue; if you know?

10 A. Because they had needed to be  
11 completed.

12 Q. Normally, are work orders given  
13 to a superintendent?

14 A. Yes.

15 Q. So he gave you the work orders  
16 starting in 2011?

17 A. Yes, yes, yes.

18 Q. What language did you speak  
19 with Mr. Klahr in?

20 A. In English.

21 Q. When you started at 437 Morris  
22 Park Avenue, did you go over what you were  
23 going to be paid with Mr. Klahr?

24 A. Yes.

25 Q. When was that?

1 N. ALMONTE

2 A. Around April of 2011 that I  
3 said that in order for me to be super, we  
4 needed to straighten out the salary.

5 Q. Okay. What did you say to him,  
6 and what did he say to you?

7 A. He asked me if I was ready to  
8 be the super. I told him, "Yes, but my  
9 salary to start had to be \$500 weekly."

10 He said it couldn't start at  
11 \$500, "Let's start at \$400. Once you have  
12 a few months, as you know -- as you get to  
13 know the building, then we will fix it. To  
14 be more specific, when you get your papers  
15 in order."

16 Q. So what was your salary as a  
17 handyman at 437 Morris Park Avenue?

18 A. \$350 weekly.

19 Q. When was that? For what period  
20 did you get that salary? What period of  
21 time?

22 A. From February. Starting  
23 February 2011 when I started working on  
24 1056 Boynton. Until that point that day  
25 that we spoke and he said that he would pay

1 N. ALMONTE

2 me \$400.

3 Q. You were going to be paid \$400  
4 to perform what job?

5 A. Work as a super.

6 Q. Now what day did you become the  
7 handyman after you became the  
8 superintendent?

9 A. I never become a handyman after  
10 being the superintendent.

11 Q. So you remained as a  
12 superintendent from the time in April 2011  
13 until you stopped working in December of  
14 2013; is that correct?

15 A. Yes.

16 Q. Let's just start with 2011. We  
17 are going to go back to the salary in a  
18 second.

19 When you started, were there  
20 any other people working in the building in  
21 2011? When you started in at 437 Morris  
22 Park Avenue?

23 A. Yes.

24 Q. Who was working there?

25 A. Ernesto Torres as the super.

1 N. ALMONTE

2 Q. After you became the super.

3 A. Luis Colon. I remember a  
4 William, I don't remember the last name  
5 right now.

6 Q. Do you remember their  
7 positions, by the way? When you tell me  
8 their names, if you could, tell me their  
9 positions.

10 A. Those were handymen.

11 Q. Any porters?

12 A. There was a porter. There was  
13 a porter, but I don't have his name because  
14 there were many porters.

15 Q. Did anybody else work in 2011  
16 other than these muchos porters, Luis  
17 Colon, and William?

18 MR. VALLETTI: Note my  
19 objection.

20 You can answer if you understand.

21 A. I just don't recall the name of  
22 a handymen, but they were all handymen.  
23 Handymen, porter, and super.

24 Q. That's it?

25 A. That's it.



1 N. ALMONTE

2 Q. What about 2012?

3 A. The same. The same.

4 Q. Luis, William -- Luis Colon,  
5 William, and those porters.

6 A. Porters, there were other  
7 handymen because they would move around, so  
8 I don't have their names right now. I  
9 could provide afterwards.

10 Q. You have documents with their  
11 names?

12 A. Yes. I have time sheets, or a  
13 copy of the time sheets.

14 Q. By the way, you're responsible  
15 for maintaining the time sheets, correct?

16 Do you understand the question?

17 A. My own time sheet, and my  
18 worksheet. My own worksheet.

19 Q. Go ahead.

20 A. Worksheets for the workers  
21 which had to be signed by my son under his  
22 name.

23 Q. It was signed under his name,  
24 but was it required by your son?

25 A. Yes, it was a requirement.

1 N. ALMONTE

2 Q. Who told you that requirement?

3 A. Mr. Charlie Klahr, the manager.

4 Q. Did you fill out a time sheet  
5 for your work?

6 A. No.

7 Q. So you have no time records at  
8 all about the hours you worked; is that  
9 correct?

10 A. Between 2011, April of 2011 and  
11 April of 2013, it was just time sheet as  
12 super that was filled out and signed by my  
13 son, because one was the shadow of the  
14 other. Just one person would receive the  
15 -- would be on the sheet, would receive a  
16 check.

17 Q. I am going to ask you again.  
18 Please, if you don't understand -- did you  
19 submit a time sheet indicating your hours  
20 for the period that you were the  
21 superintendent from 2011 through May of  
22 2013?

23 MR. VALLETTI: Note my  
24 objection, asked and answered, but he  
25 can answer.

1 N. ALMONTE

2 A. If I would give the time sheets  
3 to who?

4 Q. Did you complete any time  
5 sheets indicating the hours you worked from  
6 April 2011 through May of 2013?

7 A. Yes.

8 Q. What years did you complete  
9 time sheets indicating the hours you  
10 worked?

11 A. The worksheets were being used  
12 towards the end of 2012. Before that,  
13 worksheets were not being used.

14 MR. WEINBERGER: Off the  
15 record.

16 (Whereupon, an off-the-record  
17 discussion was held.)

18 Q. Your testimony is, there were  
19 no worksheets in 2011 at all?

20 A. No.

21 Q. Let's just give an example. I  
22 am just pulling out one, just going to pull  
23 out one. Let's just pull out No. 4?

24 MR. VALLETTI: What is the  
25 Bates?

1 N. ALMONTE

2 MR. WEINBERGER: It's 4, 0004.

3 That is the actual Bates.

4 Q. I would like you to take a look  
5 at that.

6 A. My error as to when they were  
7 being used, or being started. It was my  
8 confusion. I am sorry.

9 MR. WEINBERGER: We have to  
10 Bates stamp that.

11 MR. VALLETTI: Mark it.

12 MR. WEINBERGER: Mark it.

13 (Whereupon, the aforementioned  
14 Time Sheet was marked as Defendants'  
15 Exhibit E for identification as of  
16 this date by the Reporter.)

17 Q. Now just looking at this sheet  
18 just for a second. We have this one out.  
19 It says, "Sick 11/2." Were you out sick  
20 that day, can you tell?

21 MR. VALLETTI: I'll make an  
22 objection here. You didn't specify  
23 who filled out this document. Who  
24 was the one that was sick?

25 MR. WEINBERGER: I don't have

1 N. ALMONTE

2 to ask that.

3 MR. VALLETTI: If you are going  
4 to refer to a document asking if he  
5 is the one that is sick when it's not  
6 a document that he signed, ask him if  
7 he signed it first.

8 MR. WEINBERGER: I don't have  
9 to.

10 MR. VALLETTI: All right, so --

11 MR. WEINBERGER: You can  
12 object. He can answer.

13 MR. VALLETTI: I preserve my  
14 right.

15 MR. WEINBERGER: You can  
16 preserve it.

17 A. In this case, I had to report  
18 whether my son or myself were sick so that  
19 they would know.

20 Q. Do you have a record of the  
21 number of hours that you -- as Nestor  
22 Lopez, as Manuel, as anybody -- do you have  
23 a record of the hours that you worked?

24 MR. VALLETTI: Objection.

25 Q. At 437 Morris Park Avenue?

1 N. ALMONTE

2 MR. VALLETTI: Objection.

3 Asked and answered, but you can  
4 answer.

5 A. The same records that you see  
6 for Manuel Almonte, he is the one that  
7 would receive the pay, but any hour that he  
8 is down that he worked, I was there as his  
9 shadow.

10 Q. I am going to ask you to answer  
11 the question. Is there any record  
12 indicating the number of hours that you  
13 worked in 2011?

14 A. Not separate.

15 Q. Do you have a record of the  
16 hours that you worked in 2011?

17 MR. VALLETTI: Note my  
18 objection. It is asked and answered.  
19 He said he can't produce that. He  
20 said no.

21 MR. WEINBERGER: You can't do  
22 that. I going to object --

23 MR. VALLETTI: Yes, I can.  
24 That is his testimony.

25 MR. WEINBERGER: That is almost

1 N. ALMONTE

2 a signal.

3 MR. VALLETTI: You keep asking  
4 the same question over and over.

5 MR. WEINBERGER: Nope, nope.  
6 That's not the same. It's almost a  
7 signal.

8 MR. VALLETTI: It is actually  
9 the third time you have asked it.

10 MR. WEINBERGER: I don't  
11 believe so. I am asking him again.

12 Q. Do you have a record, your  
13 regard, indicating the time that you worked  
14 in 2011?

15 A. There isn't any record under my  
16 name.

17 Q. I didn't ask under your name.

18 MR. WEINBERGER: I am going to  
19 direct the witness again to please  
20 answer the question.

21 A. Under my shadow's name, Manuel  
22 Almonte.

23 Q. Those are the records of the  
24 hours you worked?

25 MR. VALLETTI: Objection.

1 N. ALMONTE

2 A. They are the same.

3 Q. So somebody got paid for the  
4 hours that were worked, correct?

5 A. Yes, of course.

6 Q. How did you get paid in 2011?  
7 While you were the superintendent in 2011,  
8 how did you get paid? How did you receive  
9 payment?

10 A. The pay would be given to my  
11 son, and we would divide the check. To be  
12 more specific, it would be divided between  
13 four people.

14 Q. Which four people?

15 A. My son Manuel Almonte, my  
16 daughter Ashley Almonte, my wife Mildred  
17 Munoz, and myself. Because the four -- I  
18 say this because the four of us worked. If  
19 something needed to be done, and I wasn't  
20 available, I could send my daughter or my  
21 wife, let's say, go clean the hallway.  
22 "Clean up the hallway, there is something  
23 dirty." "Go clean the elevator, there is  
24 something dirty."

25 Q. When did your daughter or wife



1 N. ALMONTE

2 clean the hallway?

3 A. I don't have a record, but it  
4 would be, like, by a call where they would  
5 tell me, "Oh, someone vomited in the  
6 elevator," and I would be occupied with  
7 something else. So then I would call my  
8 daughter and say, "Please go to the  
9 elevator of the building, clean it because  
10 someone vomited." Because, remember, we  
11 lived in the same building.

12 Q. Did Manuel, your son, get any  
13 work orders from Mr. Klahr?

14 A. I would always receive them.

15 Q. Then you would divide up how  
16 the work was done?

17 A. I would divide the work with  
18 the employees.

19 Q. "Employees" meaning who?

20 A. That would include me, the  
21 handyman that would be there at that time  
22 that they were there, including my son.  
23 That the jobs that were mine, he would do  
24 them with me.

25 Q. Do you have that in writing,

1 N. ALMONTE

2 that your son was supposed to do the job  
3 with you?

4 A. All of the work orders say the  
5 apartment and who did the job.

6 MR. WEINBERGER: Can you read  
7 back the question.

8 (Whereupon, the referred to  
9 question was read back by the  
10 Reporter.)

11 Q. From any of the defendants.

12 A. No. That was all verbal  
13 between Charlie Klahr, myself, and my son.

14 MR. WEINBERGER: Please mark  
15 this.

16 (Whereupon, the aforementioned  
17 document was marked as Defendants'  
18 Exhibit F for identification as of  
19 this date by the Reporter.)

20 Q. I would like to show you what  
21 has been marked as Exhibit F.

22 A. What can I help you with with  
23 this?

24 MR. VALLETTI: Which number?

25 Am I on the wrong number?

1 N. ALMONTE

2 MR. WEINBERGER: 2011.

3 MR. VALLETTI: Thank you.

4 Q. Let's just go through the  
5 document first.

6 A. Can I ask if my lawyer had this  
7 document?

8 MR. VALLETTI: Yes.

9 Q. Unfortunately, you can't.

10 A. I do recall this document, but  
11 I don't recall it having this writing up  
12 top.

13 Q. Do you recall signing this  
14 document?

15 A. No. I remember when it was  
16 signed, but I didn't sign it. It was  
17 Manuel Almonte.

18 Q. So is it your testimony that at  
19 the age of 16 or 17 Manuel Almonte signed  
20 this document?

21 A. At 17 years of age.

22 Q. He claims five dependants. Is  
23 that what this document says? Including a  
24 spouse?

25 A. It was a suggestion that

1 N. ALMONTE

2 Charlie Klahr had asked for taxes. That  
3 this isn't a perjury or anything, that this  
4 is a way of getting less taxes.

5 Q. When did you see this document?

6 A. When it was signed at his car.  
7 We were on Lebanon Street on the other side  
8 of Morris Park.

9 Q. When was that signed?

10 A. 2011.

11 Q. What month in 2011?

12 A. It's here. The date, it is  
13 October of 2011.

14 Q. Were you already the  
15 superintendent at that building at that  
16 time?

17 MR. WEINBERGER: I will  
18 withdraw it. It is getting late.

19 Q. With respect to time sheets,  
20 did you have to sign off or approve the  
21 time sheets that the other employees gave  
22 you, the handymen?

23 A. Yes.

24 Q. Do you know why you had to sign  
25 off on those sheets?

1 N. ALMONTE

2 A. It would be for their entering  
3 or starting work and leaving work, and also  
4 their lunch hour. The whole time, the  
5 super is the witness that the worker had  
6 completed that time.

7 Q. That is why you had to fill out  
8 the sheet?

9 A. That is why I would have to  
10 sign it.

11 Q. You signed those sheets in 2011  
12 and 2012?

13 A. Manuel Almonte would sign it.  
14 As you recall, I couldn't sign anything.  
15 Everything was Manuel Almonte.

16 Q. But you were the one who  
17 approved it?

18 A. Yes.

19 MR. WEINBERGER: Off the  
20 record.

21 (Whereupon, an off-the-record  
22 discussion was held.)

23 MR. WEINBERGER: At this point,  
24 we seem to have a problem with  
25 weather-related issues. The

1 N. ALMONTE

2 translator has indicated that he must  
3 leave. We do not have an alternate  
4 translator. We have done the best we  
5 can so far. At this point, I do not  
6 see how we can proceed without a  
7 translator. And given that the snow  
8 is coming down fairly heavily now, we  
9 are not likely to get anybody. We  
10 need to continue the deposition. I  
11 think both sides have agreed that we  
12 will have to continue the deposition.  
13 We do not have a translator.

14 I don't know if Plaintiff's  
15 counsel wishes to say anything for  
16 the record.

17 MR. VALLETTI: Sure. I agree  
18 with Stewart's concerns, and, also,  
19 we appreciate the time here the  
20 translator gave us today, even though  
21 it's been trying outside.

22 I do have to get home myself.  
23 I am worried about the commuting  
24 issues, and I live with my  
25 grandmother that relies on me when

1 N. ALMONTE

2 the weather gets bad. Hopefully, the  
3 power doesn't go out. So we all have  
4 families to be with and places to be  
5 to make sure that everything is taken  
6 care of.

7 At this time, it is agreed to  
8 adjourn the rest of deposition with  
9 all of these concerns.

10 (Whereupon, at 1:23 P.M., the  
11 Examination of this Witness was  
12 adjourned.)

13

14

15 \_\_\_\_\_  
NESTOR ALMONTE

16

17 Subscribed and sworn to before me

18 this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_.

19

20 \_\_\_\_\_  
NOTARY PUBLIC

21

22

23

24

25

1 N. ALMONTE

2 E X H I B I T S

3

4 DEFENDANT EXHIBITS

5

6 EXHIBIT EXHIBIT PAGE

7 NUMBER DESCRIPTION

8 A Unidentified Document 07

9 B Unidentified Document 09

10 C Unidentified Document 10

11 D Unidentified Document 22

12 E Time Sheet 59

13 F Unidentified Document 65

14

15

16 I N D E X

17

18 EXAMINATION BY PAGE

19 MR. WEINBERGER 04

20

21

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23

24

25



1	N. ALMONTE	
2	INFORMATION AND/OR DOCUMENTS REQUESTED	
3	INFORMATION AND/OR DOCUMENTS	PAGE
4	Tax Records For 2001 and 2002	23
5	Any Documents Referring to DEFO	23
6	Manuel Almonte's School Records	36
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10	From 2012 For Manuel Almonte	47
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12	For Manual Almonte	49

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1 N. ALMONTE  
2 C E R T I F I C A T E  
3


4 STATE OF NEW YORK )  
5 : SS.:  
6 COUNTY OF NEW YORK )  
7

8 I, EVANGUELIA GALARZA, a Notary  
9 Public for and within the State of New  
10 York, do hereby certify:

11 That the witness whose examination is  
12 hereinbefore set forth was duly sworn and  
13 that such examination is a true record of  
14 the testimony given by that witness.

15 I further certify that I am not  
16 related to any of the parties to this  
17 action by blood or by marriage and that I  
18 am in no way interested in the outcome of  
19 this matter.

20 IN WITNESS WHEREOF, I have hereunto  
21 set my hand this 9th day of February 2015.  
22

23   
24 \_\_\_\_\_  
25 EVANGUELIA GALARZA

1  
2 UNITED STATES DISTRICT COURT  
3 SOUTHERN DISTRICT OF NEW YORK

4 -----X  
5 NESTOR ALMONTE,

6 PLAINTIFF,

7 -against-

8 Case No:  
9 14-CV-5951 (CKPF)

10 437 MORRIS PARK LLC d/b/a F&T MANAGEMENT  
11 CO., et al.,

12 DEFENDANTS.

13 -----X

14 DATE: February 10, 2015

15 TIME: 11:24 a.m

16 CONTINUED DEPOSITION of the  
17 Plaintiff, NESTOR ALMONTE, taken by the  
18 Defendants, pursuant to a notice and to the  
19 Federal Rules of Civil Procedure, held at  
20 the offices of Goldberg & Weinberger LLP,  
21 630 Third Avenue, 18th Floor, New York, New  
22 York 10017, before Scott Torrance, a Notary  
23 Public of the State of New York.  
24  
25

1

2 A P P E A R A N C E S:

3

4 VALLI KANE & VAGNINI  
Attorney for the Plaintiff -  
5 NESTOR ALMONTE  
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6 Garden City, New York 11530  
BY: ROBERT P. VALLETTI, ESQ.  
7 rpv@vkvlawyers.com

8

9 GOLDBERG & WEINBERGER LLP  
Attorneys for the Defendants -  
10 437 MORRIS PARK, LLC i/s/h/a 437 MORRIS  
PARK d/b/a F&T MANAGEMENT CO., 1195  
11 SHERMAN AVE., LLC, CHANINIA KLAHR, KALMAN  
TABAK, and ABRAHAM FINKELSTEIN  
12 630 Third Avenue  
New York, New York 10017  
13 BY: STUART WEINBERGER, ESQ.

14

15 ALSO PRESENT:  
CHANINIA KLAHR  
16 ANNETTE ALETOR  
JOSE LOPEZ, Spanish interpreter, Star  
17 Interpreting and Translating, Inc.

18

19 \* \* \*

20

21

22

23

24

25

1

## 2 F E D E R A L S T I P U L A T I O N S

3

4

5 IT IS HEREBY STIPULATED AND AGREED by and  
6 between the counsel for the respective  
7 parties herein that the sealing, filing and  
8 certification of the within deposition be  
9 waived; that the original of the deposition  
10 may be signed and sworn to by the witness  
11 before anyone authorized to administer an  
12 oath, with the same effect as if signed  
13 before a Judge of the Court; that an  
14 unsigned copy of the deposition may be used  
15 with the same force and effect as if signed  
16 by the witness, 30 days after service of  
17 the original & 1 copy of same upon counsel  
18 for the witness.

19

20 IT IS FURTHER STIPULATED AND AGREED that  
21 all objections except as to form, are  
22 reserved to the time of trial.

23

24

\* \* \* \*

25

1 N. ALMONTE

2 J O S E L O P E Z, a Spanish interpreter,  
3 solemnly swore to translate the following  
4 questions from English to Spanish and  
5 answers from Spanish to English:

6

7 N E S T O R A L M O N T E, recalled as a  
8 witness, having been resworn, through an  
9 interpreter, by a Notary Public of the  
10 State of New York, was examined and  
11 testified as follows:

12 CONTINUED EXAMINATION

13 BY MR. WEINBERGER:

14 Q. Please state your name for the  
15 record.

16 A. Nestor Almonte.

17 Q. Please state your address for  
18 the record.

19 A. 4536 Park Avenue, Apartment 12,  
20 Weehawken New Jersey 07086.

21 Q. Good morning

22 A. Good morning.

23 Q. I'm going to ask you some  
24 questions again. If you don't understand  
25 the question, please tell me; I'll rephrase

1 N. ALMONTE

2 the question. If you answer the question,  
3 I'm going to assume that you understand the  
4 question.

5 Are you taking any medication  
6 today that will affect your ability to  
7 answer questions?

8 A. No.

9 Q. Is there any reason why you  
10 cannot tell the truth in response to the  
11 questions I'm going to ask you today?

12 A. I have no reason.

13 Q. Did you discuss the testimony  
14 you're about to give now with anyone, other  
15 than your attorneys, prior to day?

16 A. No.

17 Q. What is -- I'm going to try not  
18 to ask the questions again that I asked the  
19 other time; however, we rushed out because  
20 of the snow and we don't have a copy of the  
21 transcript. So, having said that, I'm  
22 going to ask you to start here. What is  
23 the full name of your wife?

24 A. Mildred Margarita Munoz Reyes.

25 Q. When were you married?

1 N. ALMONTE

2 A. In December of 2012.

3 Q. And where were you married?

4 A. In the Bronx.

5 (Whereupon, Chaninia Klahr  
6 entered the room.)

7 Q. And you have a marriage  
8 certificate?

9 A. Yes.

10 Q. Okay.

11 MR. WEINBERGER: I'm going to  
12 ask that it be produced.

13 MR. VALLETTI: And I'd ask that  
14 all requests for production be put in  
15 writing, please, and thank you.

16 MR. WEINBERGER: Just taking a  
17 one-second break.

18 Off the record.

19 (Whereupon, a discussion was  
20 held off the record.)

21 Q. Now, in May 2011, were you the  
22 handyman at 437 Morris Park Avenue?

23 A. It was around that time that I  
24 was brought over to become superintendent.

25 Q. Brought over from where, just



1 N. ALMONTE

2 to clarify that?

3 A. I mean from handyman to  
4 superintendent.

5 Q. Okay. From handyman where? At  
6 437 Morris Park? Were you the handyman  
7 there?

8 A. Yes.

9 Q. Okay. When did you become the  
10 handyman at 437 Morris Park?

11 A. At the end of February of 2011.

12 Q. And when did you stop being the  
13 handyman at 437 Morris Park?

14 A. It was around May. April or  
15 May, I'm not sure.

16 Q. Of what year?

17 A. 2011.

18 Q. When you became the  
19 superintendent in April or May of 2011, at  
20 the same time you became superintendent,  
21 did somebody else become the superintendent  
22 as well, at 437 Morris Park?

23 A. Yes.

24 Q. Okay. And who was that?

25 A. Manuel Almonte.

1 N. ALMONTE

2 Q. Now, prior to him, Manuel,  
3 becoming the superintendent at 437 Morris  
4 Park, what jobs had Manuel Almonte had  
5 before he became superintendent?

6 A. He was a student and he had  
7 worked in the -- doing summer jobs,  
8 part-time summer jobs.

9 Q. Such as?

10 A. Maintenance at a clinic.

11 Q. What does that mean; sweeping,  
12 mopping?

13 A. Checking bulbs, lightbulbs,  
14 checking toilets, bathrooms.

15 Q. And doing what?

16 A. Unclogging toilets that could  
17 be clogged, fixing a leakage at some kind  
18 of sink.

19 Q. And he did that at what age?

20 A. His age was since 15, 16 years  
21 old, but he was doing that since he was a  
22 child. Since he was a child he was  
23 learning these things, always working.

24 Q. Where was he working since he  
25 was a child?

1 N. ALMONTE

2 A. Not formally working, but  
3 working in the sense that he would help me  
4 and I would teach him. He's my son.

5 Q. What were you doing prior to  
6 February 2011, where you were -- what were  
7 you doing prior to February 2011, where  
8 were you working?

9 A. I was self-employed and I was  
10 doing handyman work.

11 Q. Did you ever work at 1056  
12 Boynton Avenue?

13 A. Yes.

14 Q. When?

15 A. February of 2011.

16 Q. Until when?

17 A. Just up to February itself,  
18 that February. I just worked two, three  
19 weeks there at 1056 Boynton.

20 Q. Okay. How many units,  
21 apartments, were at 1056 Boynton Avenue?

22 A. I don't recall exactly the  
23 number, but it's 70. Actually more than  
24 70.

25 Q. Is that building bigger than

1 N. ALMONTE

2 437 Morris Park Avenue?

3 A. They're more or less similar.

4 Q. How many superintendents were  
5 at 1056 Boynton Avenue?

6 A. When I worked there there was  
7 only one superintendent.

8 Q. Well, did you ever work again  
9 at 1056 Boynton Avenue after February 2001?

10 A. 2011?

11 Q. 2011. Did I say 2001? I'm  
12 sorry. I apologize.

13 A. There were some occasions.  
14 There were some days in which I had to go  
15 there because of some emergency.

16 Q. Now, on those occasions you had  
17 to go there, was there more than one  
18 superintendent working in that building?

19 A. One superintendent. Sometimes  
20 that superintendent might be on vacation;  
21 and, if so, then I would arrive there and  
22 would try to do some job as -- because of  
23 an emergency, some problem with an elevator  
24 that would be stuck, whatever.

25 Q. Okay. So, there's generally

1 N. ALMONTE

2 one superintendent was in charge of 1056  
3 Boynton Avenue, is that correct, at the  
4 time you worked there?

5 A. Yes.

6 Q. 1195 Sherman Avenue, did you  
7 ever work in that building?

8 A. Yes.

9 Q. Okay. How many units is that  
10 building?

11 A. 40, 41. I don't recall the  
12 exact number right now.

13 Q. Is it bigger or smaller than  
14 437 Morris Park, in terms of units?

15 A. It's much smaller.

16 Q. How many supers were in that  
17 building when you worked there, at a time?

18 A. One.

19 Q. What about 1101 Manor Avenue?  
20 Did you ever work there?

21 A. Yes.

22 Q. How many units was that, if you  
23 remember?

24 A. It was more or less about 70 as  
25 well.

1 N. ALMONTE

2 Q. Same size as --

3 A. More or less.

4 Q. How many superintendents were  
5 employed at a time at 1101 Manor Avenue?

6 A. There were many of them, but at  
7 a time there was always one.

8 Q. Now, who hired your son at  
9 1056 -- at -- excuse me, at 437 Morris Park  
10 Avenue, to be the superintendent?

11 A. The manager, Mr. Charley Klahr.

12 Q. And he interviewed your son?

13 A. Yes.

14 Q. When?

15 A. April, May of 2011. I'm not  
16 sure about the date.

17 Q. So, you were the superintendent  
18 before your son was hired at 437 Morris  
19 Park Avenue?

20 A. Yes.

21 Q. Okay. Do you have any  
22 explanation why the company would a  
23 17-year-old to be the superintendent when  
24 you're the superintendent already doing the  
25 work?

1 N. ALMONTE

2 A. Yes.

3 Q. What's your explanation?

4 A. I did not have my document, uh,  
5 in order -- in order to work in the  
6 United States.

7 Q. So, Manuel Almonte was used in  
8 order to -- name was used in order to pay  
9 you; is that correct?

10 A. Not exactly.

11 Q. How is it not exactly correct?

12 A. Because had it been so, he  
13 would not have had to work, and he did have  
14 to work.

15 Q. As superintendent, Manuel  
16 Almonte assigned work to you; is that  
17 correct?

18 A. No.

19 Q. Who assigned work to Manuel  
20 Almonte?

21 A. I would.

22 Q. Do you have any evidence that  
23 you assigned work to Manuel Almonte?

24 MR. VALLETTI: Just note my  
25 objection to form. He could answer.

1 N. ALMONTE

2 All I was getting at was "evidence."

3 MR. WEINBERGER: Okay.

4 Q. Do you have any documents,  
5 notes, records, anything that shows that  
6 you assigned work to Manuel Almonte?

7 A. Yes. The workorders.

8 Q. Do you have any copies of  
9 workorders that you gave Manuel Almonte to  
10 do?

11 A. As I have many and as I have  
12 said in the past, there would be an order,  
13 a workorder to do a job, and where I was  
14 working, he would work. Many times I would  
15 then move to some other place and he would  
16 finish the job.

17 Q. So, you told him what -- he was  
18 shadowing you; correct? You used the  
19 phrase shadow, correct, last time?

20 A. Yes, shadowed.

21 Q. Do you have any, again,  
22 explanation as to why the company would pay  
23 two people to do the job that one person  
24 was supposed to do?

25 MR. VALLETTI: Just note my



1 N. ALMONTE

2 objection to form, but he could  
3 answer.

4 A. One of them had the  
5 documentation and the other one did not.  
6 But what the reason that the company would  
7 do it? I don't know why they would do it.

8 MR. WEINBERGER: Off the  
9 record.

10 (Whereupon, a discussion was  
11 held off the record.)

12 Q. So, the company was paying two  
13 people to do one job; is that correct?

14 A. Yes.

15 Q. You can identify to us the  
16 workorders that were completed by Manuel  
17 Almonte, by himself?

18 A. Well, that went on for two long  
19 years, so, exactly which ones were done  
20 just by him and which ones were not, that's  
21 difficult. You remember that it was two  
22 names and one employee. Or, rather, two  
23 employees, one name.

24 Q. I'm sorry. Say that again.

25 You gave two --

1 N. ALMONTE

2 (Whereupon, the referred to  
3 portion of the record was read back  
4 by the reporter.)

5 Q. Well, you had handymen in the  
6 building, correct, for this period?

7 A. What period?

8 Q. The two long years.

9 A. I was superintendent.

10 Q. But you also had handymen in  
11 the building for those two long years, is  
12 that correct, at 437 Morris Park Avenue?

13 A. Every superintendent is a  
14 handyman in every building.

15 Q. Were there handymen working at  
16 437 Morris Park in the year 2012?

17 A. Manuel Almonte, and Nestor  
18 Almonte.

19 Q. And that's it? There were no  
20 other handymen at 437 Morris Park Avenue in  
21 2011; is that correct? I'm just trying to  
22 get it clear?

23 A. If you check the question, the  
24 question you had asked me was, was there  
25 another superintendent. I didn't say

1 N. ALMONTE

2 anything about handymen.

3 MR. VALLETTI: So, Stu just try  
4 and clarify, if you can.

5 Q. Were there handymen working --  
6 titled handymen, working in 2011 at 437  
7 Morris Park Avenue?

8 A. Yes.

9 Q. Do you know their names?

10 A. By memory -- well, there were  
11 several of them. A handyman would come by  
12 and he would last a week, he would last a  
13 month.

14 Q. Wasn't it the job of the  
15 handyman to assist the superintendent?

16 A. Yes, the superintendents, uh,  
17 from the workorders, he would make an  
18 extract of what each one would be able to  
19 do according to his capacity.

20 Q. So, is it your testimony --  
21 who'd assign the work to the handyman?

22 A. I was the one who assigned the  
23 work.

24 Q. Okay. So, you assign the work  
25 to everybody in the building?

1 N. ALMONTE

2 A. With the exception of the  
3 porter who already had a certain rule, a  
4 certain pattern to follow.

5 Q. I have a question for you  
6 again. Not again. I have a question. In  
7 2012, wasn't everybody who worked in the  
8 building supposed to submit a weekly  
9 timesheet?

10 A. Yes.

11 Q. Okay. So, where is your  
12 timesheet for 2012?

13 A. There is none because there  
14 never appeared one with my name.

15 Q. Is there a timesheet in  
16 somebody else's name reflecting the hours  
17 you worked?

18 A. Every handyman, including my  
19 son as a superintendent, had his own  
20 timesheet. I had no documentation, so I  
21 had no timesheet.

22 Q. Isn't it true that the  
23 company's policy was: you couldn't be paid  
24 unless you submitted a timesheet?

25 A. That's how it is, yes.

1 N. ALMONTE

2 Q. Yes. So, is it your -- how far  
3 is the -- you had an apartment that was  
4 given to you at 437 Morris Park Avenue as  
5 the superintendent; is that correct?

6 A. Yes.

7 Q. Is there a company office at  
8 437 Morris Park Avenue?

9 A. At the beginning, that office  
10 was located in the lobby; and afterwards,  
11 it was moved over to the basement.

12 Q. How far is your apartment from  
13 the -- from the office in the basement?  
14 How far was your apartment?

15 A. It may be a hundred feet away.

16 Q. How many times, in 2012,  
17 staying with 2012, did you tell the company  
18 the hours that you worked?

19 A. When the timesheet would be  
20 presented with the name of Manuel Almonte;  
21 in other words, that would be the same time  
22 in which Manuel Almonte and Nestor Almonte  
23 were working.

24 Q. So, you both worked the exact  
25 same hours; is that correct?

1 N. ALMONTE

2 A. Yes.

3 Q. So, in other words, the company  
4 would -- your testimony is that the company  
5 paid you and your son not only to do the  
6 same task, but to work exactly the same  
7 time doing the same task?

8 A. Yes.

9 Q. Do you have any explanation, by  
10 the way, of how that could be possible if  
11 your son spent time in school, in  
12 high school?

13 A. That was the reason why he had  
14 to quit school.

15 Q. I understand that, but you  
16 testified that all the timesheets -- let's  
17 say 2012 or 2011 or 2013, up until, let's  
18 just say April, reflect exactly the same  
19 amount of time that you worked that Manuel  
20 worked?

21 A. This is the way in which the  
22 company, the manager demanded of me to do  
23 it. In fact, the hours shown on the  
24 timesheets are not exactly the same exact  
25 hours that were worked, but by order of the

1 N. ALMONTE

2 manager, that had to be completed that way.

3 There, the work was 24 hours a day, seven

4 days a week.

5 Q. Okay. So, you worked 24 hours

6 a day, seven days a week, is that correct,

7 in 2012?

8 A. In a certain way, yes, I did.

9 Q. Okay. We're going to come

10 back. We'll do this logically to the hours

11 that you worked.

12 So, your testimony is, you're

13 entitled to 168 hours of pay each week

14 which is the number of hours?

15 MR. VALLETTI: Just note my

16 objection to mischaracterizes of the

17 testimony.

18 MR. WEINBERGER: Okay.

19 Q. Your claims, just so I

20 understand -- we're going to come back to

21 specifically each week and each hours -- is

22 that you worked every single hour of every

23 single day and that you're entitled to pay

24 for it? Is that your claim?

25 A. Well, for example, if I would

1 N. ALMONTE

2 use as an example your own job, you work  
3 right here with a certain schedule in your  
4 office. No one is going to assure me that  
5 during those eight to nine hours you're  
6 going to be each and every one of those  
7 minutes in fact busy, and I say that  
8 because in this company there's something  
9 which is called hotline in which -- on the  
10 24 hours, seven days a week, which doesn't  
11 mean every minute of every hour, but if for  
12 each hour, if there's something like, let's  
13 say a complaint, where the hotline would  
14 communicate to us, the supers, that  
15 something is happening, you have to run and  
16 repair that. There were occasions -- and  
17 Mr. Charley Klahr can clarify to you if  
18 this is true or not, but when I arrived in  
19 those buildings to work, I, at night, would  
20 be taking off my pants. I would be leaving  
21 it, sitting on my boots as if I were a  
22 fireman. When the hotline -- they would be  
23 calling me on the hotline maybe at 2 a.m.  
24 or 3 a.m., I would have to put my feet into  
25 my boots, pull up my pants and just set off



1 N. ALMONTE

2 running because that leakage had to be  
3 stopped before major consequences would  
4 come about. Consequences such as the very  
5 firemen would come and they would turn off  
6 the water or turn off the electricity, they  
7 would break in the doors to the basement so  
8 as to come in if there was no one to  
9 receive them. These were things which they  
10 did several times --

11 Q. Okay.

12 A. -- because the hotline was not  
13 calling on time.

14 Q. We're going to get into the  
15 hours in a little bit.

16 The hotline was calling you;  
17 correct?

18 A. I was the one who had the  
19 telephone for the company.

20 Q. Okay. Your son didn't have a  
21 telephone?

22 A. No, only one was needed.

23 Q. Okay.

24 A. There would be an emergency and  
25 it was just, "Manuel, let's go."

1 N. ALMONTE

2 Q. So, you took Manuel by  
3 yourself? You decided, without calling the  
4 company, if there was an emergency, that  
5 you would take Manuel with you; is that  
6 correct?

7 MR. VALLETTI: Note my  
8 objection to form.

9 A. No. The decision came from the  
10 manager, Mr. Charley Klahr. For each job,  
11 since Manuel Almonte's name was there,  
12 Mr. Manuel Almonte had to be present there  
13 even if it were I who were doing the job --

14 Q. Okay. So --

15 A. -- in front of him.

16 Q. -- your testimony is in front  
17 of -- by the way, do you understand this is  
18 being given under oath, first of all?

19 A. Correct.

20 Q. You understand.

21 And you understand that you're  
22 required to tell the truth? I'm just  
23 asking.

24 A. I understand it.

25 Q. So, we're going to, again, go

1 N. ALMONTE

2 into more detail.

3 So, if we bring in -- if  
4 somebody from, for example, Aguila --

5 THE INTERPRETER: Who?

6 MR. WEINBERGER: Aguila,  
7 that's --

8 Q. What witness do you have --  
9 excuse me. Aguila did work in the  
10 building, right?

11 A. Yes.

12 Q. Who from Aguila, that you know  
13 of, witnessed your son doing work in the  
14 building?

15 A. Two of them.

16 Q. Who?

17 A. Mr. Orlando -- I don't remember  
18 his last name.

19 Q. What about Soto? Does that  
20 ring a bell?

21 A. I don't remember Soto to have  
22 coincided, to have been there at the same  
23 time with my son in any job.

24 Q. Was he there when Soto -- Soto  
25 ever see you work by yourself, without your

1 N. ALMONTE

2 son?

3 A. Alone and --

4 Q. Yes.

5 A. -- without my son?

6 Q. Yes.

7 A. Soto didn't used to go that  
8 much to the building. He was a supervisor.  
9 He was always outside.

10 Q. I didn't ask. You got to --  
11 please listen to the question and answer  
12 this. It's going to take a long time if we  
13 don't.

14 Did Soto ever see you work with  
15 your son, as far as you know?

16 A. I don't remember.

17 Q. Okay. Orlando. When  
18 Orlando -- again, I have to go back to --  
19 I'm going to try to do it in sequence here.

20 When did Orlando see your son  
21 working by himself -- let's start with by  
22 himself -- in any time that you were at the  
23 building, 437 Morris Park? And please tell  
24 us what job you were doing?

25 MR. VALLETTI: Just note my

1 N. ALMONTE

2 objection, please.

3 Q. He was doing.

4 A. Almost always.

5 Q. I didn't ask -- I said  
6 specifically. Give me a specific job and a  
7 specific instance and a specific apartment,  
8 a specific year, if you can. One.

9 MR. VALLETTI: Note my  
10 objection.

11 If you can remember, to the  
12 best of your recollection.

13 A. I can't remember that. He was  
14 always there painting apartments with me.

15 Q. What record did you hand into  
16 the company -- I'm going to go back to  
17 this -- showing Charley Klahr, anybody in  
18 the company, showing that Manuel did the  
19 work?

20 A. He had -- he would receive  
21 payment and -- a check for this job and he  
22 had a timesheet for this job.

23 Q. I didn't -- again, please  
24 listen to the question. If you don't  
25 understand the question, I'll rephrase it.

1 N. ALMONTE

2 What document, record, besides  
3 a timesheet, did you submit or Manuel  
4 submit showing that he did -- Manuel, not  
5 you, not --

6 A. It was the timesheet -- that  
7 was the only document that was there for  
8 the company -- in combination with the  
9 workorder. I just know the term workorder.  
10 I don't know what the term would be in  
11 Spanish.

12 Q. I'm asking a very simple  
13 question. What document -- and if you  
14 don't understand it, again, I'm going to  
15 rephrase it. I'll try and rephrase it.

16 What document do you have that  
17 you've -- that was submitted or, you know,  
18 was submitted showing that Manuel Almonte  
19 did work in an apartment? We'll start by  
20 himself. By himself.

21 MR. VALLETTI: Note my  
22 objection. Asked and answered.

23 MR. WEINBERGER: It wasn't.

24 MR. VALLETTI: He gave you two  
25 answers. He gave you timesheet and

1 N. ALMONTE

2 workorders, Stu.

3 MR. WEINBERGER: He's  
4 not answered the workorders.

5 MR. VALLETTI: He's answered  
6 two. Two things he gave you.

7 MR. WEINBERGER: Okay. He  
8 hasn't answered the question.

9 MR. VALLETTI: He has. You've  
10 asked it twice, so you move on to the  
11 next question, not him. He's given  
12 you the best answer he got.

13 MR. WEINBERGER: Okay. We're  
14 going to call the judge.

15 MR. VALLETTI: Call the judge  
16 then.

17 Q. Answer the question.

18 MR. VALLETTI: You've asked it  
19 twice.

20 MR. WEINBERGER: All right.  
21 Rob, he hasn't answered the question.

22 MR. VALLETTI: He said  
23 timesheets and workorders.

24 Q. What work --

25 MR. VALLETTI: Read it back.

1 N. ALMONTE

2 Q. What workorders did you -- did  
3 he give to the company showing that he  
4 himself did the job? And please --

5 A. It's very simple. Every  
6 workorder received every week or every two  
7 weeks at the end of the description  
8 indicating the -- the fixing that had to be  
9 done in an apartment, you would write which  
10 handyman did that work. Many of them  
11 simply said super. They would just write  
12 super and never -- never the name. Never  
13 Nestor Almonte or Manuel Almonte, just  
14 super, when it was the super.

15 Q. Who wrote the name super on  
16 there?

17 A. I myself would write it.

18 Q. Is there any document that has  
19 Manuel Almonte's name, any workorder that  
20 has Manuel Almonte's name, signature,  
21 anything on it, that you know?

22 A. It may be, but normally,  
23 regularly, what would be written would  
24 be -- because this was understood between  
25 the manager and us, but there may be one.



1 N. ALMONTE

2 I would have to go and check to see that.

3 Q. We're going to go through the  
4 workorders in a minute. We're going to get  
5 a chance.

6 Now, tell me, at 17 years old,  
7 what experience did Manuel Almonte have as  
8 a superintendent?

9 A. He had the documents to work.  
10 The experience was something that I had.

11 Q. So, is it your -- what work  
12 experience -- please answer the question.

13 What work experience --

14 A. That's what I'm doing (in  
15 English).

16 Q. -- did Manuel Almonte have as a  
17 superintendent before May of 2011 or  
18 April 2011?

19 A. None, and the manager knew it.

20 Q. How did the manager know it?

21 A. Because he asked me himself  
22 what experience was it that my son had. I  
23 said the experience that my son has is  
24 doing painting, simple construction work,  
25 which he has learned from me. It was then

1 N. ALMONTE

2 that the manager suggested then it doesn't  
3 matter; he is going to be doing the work  
4 and you're going to be followed by him due  
5 to your experience; that is, you will be  
6 assuring yourself that the job is well done  
7 because you do have the experience.

8 Q. So, in other words, the  
9 company -- again, just to be clear, the  
10 company gave you the work because you had  
11 the experience; correct?

12 A. Correct.

13 Q. You were supposed to be paid  
14 because you didn't have the documents  
15 through your son Manuel; is that correct?  
16 Yes or no?

17 A. You previously already asked me  
18 that question already, and I answered that  
19 if it had been so, he would have not had to  
20 work. If you check the record of what has  
21 been written, you'll see that this is the  
22 second time you asked me the same question  
23 and I've given you the same answer.

24 Q. Did your wife ever see you and  
25 your son working together?

1 N. ALMONTE

2 A. No.

3 Q. In all the two and a half --  
4 two years or so, your wife never saw you  
5 working together?

6 A. No. My wife was tending to the  
7 home. My wife was never in the building in  
8 a place of work.

9 Q. In two years, from 2011  
10 through 2013 --

11 MR. VALLETTI: Let him finish  
12 the question.

13 Q. She was not in the building at  
14 all, other than your apartment?

15 A. She would get -- she, at a  
16 certain time, would get to the lobby so as  
17 to see the mailboxes, check on that. And  
18 beyond the lobby she -- she never went, not  
19 as far as I know. My wife never used the  
20 elevator so as to go up to any apartment.  
21 She never knew anyone there.

22 Q. You know we -- you -- you know  
23 Wilton Munoz; correct?

24 A. Wilton.

25 Q. Did Wilton Munoz ever see you

1 N. ALMONTE

2 and your son working in the building  
3 together, if you know?

4 A. He would see that we worked  
5 together, but he never was inside an  
6 apartment where we would be working. He  
7 didn't work there. Wilton never worked at  
8 Morris Park when I was the super. I don't  
9 know if he did previously.

10 Q. So, did you ever see -- did  
11 Wilton ever see your son, if you know, work  
12 in the building at 437 Morris Park Avenue,  
13 if you know?

14 A. He would see him wearing his  
15 work clothes every day, but as for doing a  
16 specific job, no, not that.

17 Q. So, Wilton saw him wearing his  
18 work clothes every day; is that correct?

19 MR. VALLETTI: Note my  
20 objection, please.

21 MR. WEINBERGER: That's what he  
22 just said.

23 A. Not every day, because Wilton  
24 didn't work at 437 Morris Park. Wilton may  
25 have gone to Morris Park every -- once a

1 N. ALMONTE

2 month or every two months, to the offices.

3 Q. What work did your son do as a  
4 construction worker in 2012 or 2013?

5 MR. VALLETTI: Just note my  
6 objection as a construction worker.  
7 I don't even understand what you mean  
8 by construction worker.

9 MR. WEINBERGER: He  
10 understands.

11 MR. VALLETTI: You can -- all  
12 right, if you can.

13 A. Now, the work -- the jobs that  
14 my construction -- that my son would do  
15 would be the milder, easier kinds of jobs.  
16 The harder kinds of jobs were my own, doing  
17 painting, polishing.

18 Q. Did your son do any  
19 construction jobs outside of the building  
20 in 2012 and 2013?

21 A. Not that I know of.

22 Q. Did he work for a construction  
23 company or any other company -- let's  
24 start: In 2012, in 2013, did he work at  
25 any other place, outside of the buildings

1 N. ALMONTE

2 owned by these defendants? And I'm saying  
3 it -- wait. Before you -- okay. Before  
4 you answer, I have another part to that.

5 THE INTERPRETER: Go ahead, go  
6 ahead.

7 Q. When I'm talking about  
8 buildings, I'm talking about 1101 Manor,  
9 1195 Sherman, 437 Morris Park, the  
10 building.

11 THE INTERPRETER: Can I have  
12 that back?

13 (Whereupon, the referred to  
14 portion was read back by the  
15 reporter.)

16 A. Not by himself. He knew the  
17 buildings. He might accompany me to one of  
18 those buildings to do some job.

19 Q. I'm asking a different  
20 question. If you don't understand, again,  
21 just please tell me.

22 Did he work at -- your son,  
23 Manuel, in 2011, '12 or '13, work at any  
24 jobs, having nothing to do with the  
25 buildings I just mentioned; for example,

1 N. ALMONTE

2 did he work in a candy store? Did he work  
3 anyplace else?

4 A. Not while he worked as the  
5 super for this company.

6 Q. So, when did he get another  
7 job?

8 A. He worked temporarily for a UPS  
9 job two, three weeks.

10 Q. When was that?

11 A. That was when things got a bit  
12 tight at UPS, like December of 2012 or  
13 2013. I'm not too sure. It was 2013.

14 Q. What about, did he work at all  
15 in 2012, at any other jobs? I'm talking  
16 about Manuel.

17 A. No.

18 Q. Were you given any tools for  
19 work at 437 Morris Park Avenue, when you  
20 started at Morris Park Avenue?

21 A. When they gave me personally  
22 any tools you're saying?

23 Q. Yes.

24 A. I brought in all my own tools.  
25 What was there were some of these snake

1 N. ALMONTE

2 things for the sewage.

3 Q. Did the company give Manuel  
4 Almonte any tools, for all the time that he  
5 worked there, directly? Did the company  
6 directly give him any tools for all the  
7 time?

8 MR. VALLETTI: Just note my  
9 objection. He could answer.

10 A. The company never would give  
11 anyone anything to work, outside of the  
12 snakes.

13 Q. Unfortunately I'm going to have  
14 to ask you. Do you have a driver's  
15 license?

16 A. No.

17 Q. Did you ever provide a driver's  
18 license to the company?

19 A. No, sir.

20 Q. Do you have anything on you  
21 that has your handwriting, that you signed?

22 A. My ID, of course.

23 Q. Could I see that, by the way,  
24 because I . . .

25 A. (Handing.)



1 N. ALMONTE

2 MR. VALLETTI: Good luck with  
3 that (handing).

4 MR. WEINBERGER: Off the  
5 record.

6 (Whereupon, a discussion was  
7 held off the record.)

8 Q. Did you have authority to go to  
9 stores to purchase items?

10 A. No. I would pass over the  
11 orders to the manager and I would give him  
12 the orders. I would receive the -- the  
13 merchandise.

14 Q. Did you ever submit receipts to  
15 the company that you were paid for?

16 A. I don't understand.

17 Q. Well, did you ever indicate at  
18 some point that you had purchased items and  
19 asked to be reimbursed?

20 A. Yes.

21 Q. And do you remember when that  
22 was, if you remember?

23 A. All the time I worked.

24 Q. And that was submitted in what  
25 name?

1 N. ALMONTE

2 A. Everything was managed under  
3 the name of Manuel Almonte.

4 Q. So you submitted your receipts  
5 under the name of Manuel Almonte?

6 A. No. Receipts had no name on  
7 them.

8 Q. But you asked for payment under  
9 the name of Manuel Almonte?

10 A. No. The company would pay me  
11 under the name of those -- of Manuel  
12 Almonte; that is, it would pay for those  
13 items.

14 Q. Did you ever sign for items  
15 that were received at the building?

16 A. Of course.

17 Q. And --

18 A. Yes.

19 Q. Okay. And you signed in front  
20 of people your name, correct, when you  
21 signed for those receipts?

22 A. No. I followed the manager's  
23 instructions: "Everything that you sign,  
24 if your son is not there, you would sign  
25 using your son's name." Those were the

1 N. ALMONTE

2 instructions so that I would not lose my  
3 job.

4 Q. Okay. So you signed the name  
5 Manuel Almonte; correct?

6 A. On many occasions.

7 Q. Okay. Tell us those occasions  
8 when you would. Not every single one, but  
9 the ones you remember. And when would you  
10 sign the name Manuel Almonte?

11 A. As I already have said to you,  
12 when there would be a delivery that would  
13 arrive, if my son were not there with me, I  
14 would sign for the driver in order to  
15 receive these items. I would check to see  
16 that everything was there.

17 Q. Tell us the companies that you  
18 signed for using the name Manuel Almonte.

19 A. For example, Elmax; the  
20 plumbing company, whose name I don't  
21 remember. The plumbing supply, I don't  
22 remember the name of the company.

23 Q. What other companies do you  
24 remember?

25 A. The one for paints.

1 N. ALMONTE

2 Q. What about exterminators, did  
3 you sign?

4 A. For exterminators? There were  
5 some occasions. In many cases it was the  
6 case managers who would go with the  
7 exterminators to those jobs.

8 Q. I'm asking: Did you sign the  
9 name Manuel Almonte?

10 A. Yes.

11 Q. What about if you did any work  
12 with Aguila, Aguila, did you sign Manuel  
13 Almonte's name?

14 A. I had no job to do with Aguila.  
15 I didn't work with Aguila.

16 Q. What about furniture or  
17 repairs, did you sign Manuel Almonte's  
18 name?

19 A. Furniture was not a part of my  
20 job. It was Aguila who did those jobs.

21 Q. Okay.

22 MR. VALLETTI: Off the record.

23 (Whereupon, a discussion was  
24 held off the record.)

25 Q. When did the company say that

1 N. ALMONTE

2 you should sign your son's name to these  
3 bills or invoices?

4 A. Since it contracted us for the  
5 job.

6 Q. I asked you -- please listen to  
7 the questions.

8 When did the company tell  
9 you -- not us, you -- that you could sign  
10 your son's name?

11 A. At the moment in which the  
12 company decided that it would be my son's  
13 name that would be appearing on everything.  
14 That was something that was spoken about  
15 very clearly there at a table.

16 Q. When? And where was the table?

17 A. April or May of 2011.

18 Q. And where was the table?

19 A. The office's apartment which  
20 was located in the lobby.

21 Q. Who was there during this  
22 conversation?

23 A. Manuel Almonte, Charley Klahr,  
24 and Nestor Almonte.

25 Q. Did you sign Manuel Almonte's

1 N. ALMONTE

2 name for invoices or bills involving  
3 Millennium Elevator Company?

4 A. For any company, if Manuel  
5 Almonte would not be present, I did sign.  
6 I would sign by order of Mr. Charley Klahr.

7 Q. Okay. What companies, that you  
8 know of, did Manuel Almonte personally sign  
9 a bill or an invoice?

10 A. For Elmax, for Millennium. The  
11 same companies that I signed for. On many  
12 occasions he also was the one who signed.

13 Q. In their presence?

14 MR. VALLETTI: Just, objection.

15 A. Who are they?

16 Q. In the company's presence,  
17 Elmax, Millennium, all of these companies,  
18 did he ever --

19 MR. VALLETTI: Note my  
20 objection.

21 MR. WEINBERGER: I didn't  
22 finish the question.

23 Q. Did Manuel Almonte ever sign a  
24 bill or an invoice in the presence of Elmax  
25 plumbing, the painters, the exterminators,

1 N. ALMONTE

2 Millennium?

3 A. In the presence of the drivers  
4 who would do the deliveries.

5 Q. Do you have the name of any  
6 specific driver?

7 A. No. That's impossible.

8 Q. Do you have any specific  
9 timeframe where this was done?

10 A. From 2011 to 2013.

11 Q. Did you ever go to Elmax?

12 A. I think I did go once, one day,  
13 for something having to do with a door, to  
14 go get a door.

15 Q. Do you know what year that was?

16 A. No.

17 Q. Any other times did you go to  
18 Elmax?

19 A. No. I think for the whole  
20 time, if I went, I went once, maybe on two  
21 occasions. Everything was done by  
22 delivery.

23 Q. And when you went to Elmax on  
24 those occasions, what name did you sign?

25 A. If the super was Manuel

1 N. ALMONTE

2 Almonte, on those occasions he would sign.

3 If I was the super, then I would sign under  
4 my name with my signature.

5 Q. I'm talking about the times you  
6 went to Elmax, what name did you sign  
7 under?

8 A. Under my name.

9 Q. Which name was?

10 A. Nestor Almonte.

11 Q. And that was the time -- did  
12 you ever sign your name, Nestor Almonte,  
13 while Manuel Almonte was the  
14 superintendent, at Elmax?

15 MR. VALLETTI: Note my  
16 objection.

17 A. No.

18 MR. VALLETTI: You could  
19 answer.

20 Q. When did Manuel Almonte stop  
21 working at 437 Morris Park?

22 A. Approximately -- well,  
23 completely so around June of 2013, more or  
24 less.

25 Q. Did Manuel Almonte submit



1 N. ALMONTE

2 timesheets up until the time he stopped in  
3 June of 2013, if you know?

4 A. Yes.

5 Q. Now, going back to the  
6 submission of timesheets. Isn't it true  
7 that the superintendent would sign in the  
8 employees in, let's say 2012?

9 A. If he were present. If not,  
10 the security would sign in for the  
11 employees, like a timesheet.

12 MR. VALLETTI: Let's go off the  
13 record for a second.

14 (Whereupon, a discussion was  
15 held off the record.)

16 Q. Would the superintendent sign  
17 in the employees when they came in?

18 A. If he were present. If not,  
19 the security would have to sign them in.  
20 Somebody had to do that.

21 Q. Did the superintendent have to  
22 sign off on the timesheets in the presence  
23 of the employees?

24 A. Correct.

25 Q. Okay. Now, did you ever sign

1 N. ALMONTE

2 Manuel Almonte's name -- the name Manuel  
3 Almonte in the presence of these employees  
4 in 2012?

5 A. Of course I did.

6 Q. What about 2011? Did you sign  
7 the name Manuel Almonte on all these  
8 employees' timesheets in 2011?

9 A. If Manuel were not present.

10 Q. Is it your testimony that  
11 Manuel Almonte signed these employees in in  
12 the morning in 2011? I'm talking about the  
13 handymen.

14 MR. VALLETTI: Just note my  
15 objection to form. He could answer.

16 A. Manuel Almonte would sign.  
17 Yes, of course he would. I repeat as  
18 previously: if Manuel Almonte were present,  
19 he would sign. And why would I be signing  
20 if he were there?

21 Q. Please answer the question.  
22 I'm asking the question. If you don't  
23 understand, I'm going to ask you to  
24 rephrase it. It's yes or no.

25 Let's start in 2011. There

1 N. ALMONTE

2 were timesheets submitted, at least in  
3 2011, by various employees, the handyman,  
4 the porter, right?

5 A. Could you repeat the question?

6 Q. Okay. Let's go slow.

7 In 2011, let's say November and  
8 December, if you remember, employees,  
9 handyman, porter -- I'm not talking about  
10 you or your son -- had to submit  
11 timesheets, right?

12 MR. VALLETTI: Just, objection.

13 Asked and answered.

14 A. To the super.

15 MR. VALLETTI: He could answer.

16 Q. To you?

17 A. To me.

18 Q. And you signed off on them?

19 A. I wouldn't receive those  
20 documents, but, rather, every time they  
21 would come in -- come in or out, they -- I  
22 would sign. At the end of the week they  
23 had to hand over to me those timesheets  
24 signed by them in order to then do a fax to  
25 the paying company.

1 N. ALMONTE

2 Q. And you signed those sheets in  
3 the name of Manuel Almonte, did you not, in  
4 2011?

5 A. If Manuel Almonte were not  
6 present, yes, I would, by order of the  
7 manager.

8 Q. I didn't ask -- I'm asking --  
9 okay. Let's ask it this way.

10 MR. VALLETTI: He already  
11 answered, so --

12 MR. WEINBERGER: No, it's fine.

13 MR. VALLETTI: Go ahead.

14 Q. Tell me, in the -- did you sign  
15 the name Manuel Almonte on these timesheets  
16 in the presence of employees in 2011?

17 A. Yes.

18 MR. VALLETTI: Wait till he  
19 finishes the translation. It's okay.  
20 I know, he's asked a couple of times  
21 the same question. Just humor him.

22 MR. WEINBERGER: Okay. Thank  
23 you.

24 Q. In 2012, did you sign  
25 employees' timesheets, handymen, porters,

1 N. ALMONTE

2 in the name of Manuel Almonte?

3 A. Since 2011 up to 2013, all the  
4 time that Mr. Manuel Almonte was employee  
5 of --

6 Q. I'm going to ask that -- slow  
7 down, first of all.

8 MR. WEINBERGER: You might as  
9 well translate that. And I'm going  
10 to ask -- do you want to translate  
11 that first?

12 A. If Mr. Manuel Almonte were not  
13 present, I would sign for Mr. Manuel  
14 Almonte, by order of Mr. Charley Klahr.

15 THE INTERPRETER: And by the  
16 way, I have to have clarity in what I  
17 do.

18 MR. WEINBERGER: Agreed.

19 THE INTERPRETER: So, I'm  
20 sorry, sir, but he has -- he has to  
21 control what he's saying so that I  
22 get what he's saying. If I have to  
23 interrupt him, I'm going to begin  
24 losing the witness, the testimony.

25 Q. Just slow down. Calm down,

1 N. ALMONTE

2 please.

3 Now, what employees, that you  
4 know of, could be a witness that Manuel  
5 Almonte signed his or her timesheet in  
6 their presence in 2012?

7 A. Jose Gonzalez, William Ramos,  
8 Jonathan -- I don't remember his last name.  
9 Jonathan Duran, and any of the employees  
10 that the company had as employees and,  
11 during that time, in its payroll.

12 Q. What individuals, that you know  
13 of, that you saw, in your presence -- your  
14 presence, right? In your presence, what  
15 individuals were there, the employees --  
16 we'll ask it 2012, signed a time -- had the  
17 timesheet, when the employee was present  
18 and you were present and Manuel was  
19 present, signed by Manuel?

20 MR. VALLETTI: Just note my  
21 objection. I need clarification on  
22 that question because I don't  
23 understand it.

24 MR. WEINBERGER: Okay. We'll  
25 ask it a different way.

1 N. ALMONTE

2 MR. VALLETTI: Please do.

3 Q. In 2012 -- I'm talking about  
4 the year -- when, in your presence and in  
5 the presence of the employee, let's take  
6 any of those that you named, and your son,  
7 did your son sign his name on a timesheet  
8 of that employee?

9 A. Which is the question? In  
10 front of which employee or the date or  
11 what?

12 Q. I'm going to ask again. I'll  
13 ask it a different way.

14 MR. VALLETTI: Do you  
15 understand the question?

16 Q. If you don't understand it --

17 MR. VALLETTI: All right. So  
18 he doesn't understand it.

19 Q. When, in 2013, were you present  
20 with your son and with another employee  
21 when your son signed his name as Manuel  
22 Almonte on that employee's timesheet?

23 MR. VALLETTI: Just note my  
24 objection to form. He could answer.

25 A. I still continue without

1 N. ALMONTE

2 understanding that question. That has no  
3 sense, makes no sense.

4 Q. Why doesn't it make no sense?

5 A. Could it be clearer?

6 Q. Okay. You testified your son  
7 signed timesheets in 2013 for employees  
8 other than you and your son; is that true  
9 or not?

10 THE INTERPRETER: I'm sorry. I  
11 don't understand the question. I'm  
12 sorry.

13 (Whereupon, the referred to  
14 portion of the record was read back  
15 by the reporter.)

16 A. Yes.

17 Q. And in your presence, let's --  
18 again, only in 2013 and only when you were  
19 present, did you see your son sign a  
20 timesheet with that other employee also  
21 being present for that employee?

22 A. Many times.

23 Q. Tell us what employees in 2013  
24 did you see this? Again, we're just  
25 referring to the situation where you were



1 N. ALMONTE

2 present, your son was present, and the  
3 employee was present and your son, not you,  
4 signed the name Manuel Almonte.

5 A. The only name I do remember was  
6 Jose Gonzalez, because he was the porter  
7 and he was there every day. The porter  
8 works only in one building. Any other  
9 employee that may have worked during the  
10 week, if you check the company's record you  
11 will find, and they can testify whether  
12 Manuel Almonte signed the timesheet for  
13 them at that time or not.

14 Q. I'm not asking them. Please  
15 listen to the question.

16 Those employees, did they  
17 see -- were they present when Manuel  
18 Almonte, in your presence, signed his name  
19 on the timesheets?

20 MR. VALLETTI: Just note my  
21 objection to form.

22 A. Yes.

23 Q. Besides Jose Gonzalez, who was  
24 that?

25 A. I don't remember the names

1 N. ALMONTE

2 of -- I'm saying William Ramos. I'm not  
3 very familiar with names. Somebody  
4 mentions his name Tom and after a while I  
5 don't remember.

6 Q. Can you tell us why your son,  
7 Manuel Almonte, would have to sign it if  
8 you signed his name on other occasions?

9 A. On the occasions in which I  
10 would sign, it was because he was not  
11 present, and that was by order of the  
12 manager. If he were present, I didn't have  
13 to sign because he's there himself to do  
14 his own handwriting with his own pencil.

15 Q. How many times -- let's go to  
16 2013, because that's closer.

17 How many times did you sign  
18 Manuel Almonte's name, if you remember,  
19 approximately, in 2014 -- '13, excuse me,  
20 before you changed your name to Nestor?

21 MR. VALLETTI: Note my  
22 objection, first. Can I have a  
23 read-back on that?

24 (Whereupon, the referred to  
25 portion of the record was read back

1 N. ALMONTE

2 by the reporter.)

3 MR. VALLETTI: Don't answer  
4 that question because he never said  
5 that. Change your question if you  
6 want an --

7 MR. WEINBERGER: No, he could  
8 answer it. If he could answer it  
9 never happened, it did happen --

10 MR. VALLETTI: Okay.

11 You could answer. You could  
12 answer.

13 A. I never changed my name (in  
14 English).

15 MR. VALLETTI: In English.

16 A. I never changed my name.

17 Q. Okay.

18 MR. VALLETTI: You answered the  
19 question.

20 MR. WEINBERGER: Okay.

21 MR. VALLETTI: Next question.

22 Q. How many times in 2013 -- let's  
23 ask it differently.

24 Did you sign these timesheets  
25 in 2013, in Manuel's name, more than Manuel

1 N. ALMONTE

2 did or less than Manuel did?

3 A. Less.

4 Q. By the way, did you submit any  
5 timesheets in 2013, before 2013, up until  
6 June of 2013?

7 THE INTERPRETER: Again.

8 (Whereupon, the referred to  
9 portion of the record was read back  
10 by the reporter.)

11 A. Since April of 2013, when the  
12 company named me super, Nestor Almonte,  
13 super, because I then had already received  
14 my Social Security and my documentation for  
15 me to work legally in the United States.

16 Q. So, after April of -- starting  
17 in April 2013 till June of 2013, you  
18 submitted a timesheet and Manuel Almonte  
19 submitted a timesheet; is that correct?

20 A. He would hand that over to me,  
21 the same as all other employees.

22 Q. And you submitted a timesheet  
23 for Nestor Almonte and Manuel Almonte for  
24 those two months; is that correct?

25 A. For Nestor Almonte, as

1 N. ALMONTE

2 superintendent; and as handyman, Manuel  
3 Almonte.

4 Q. So, the answer is yes or no.  
5 Did you submit two timesheets, one for  
6 Nestor Almonte and one for Manuel Almonte,  
7 from April 2013 to June 2013? Yes or no?

8 MR. VALLETTI: Just note my  
9 objection to form. I think it needs  
10 clarification before he answers,  
11 because he received Manuel's  
12 timesheets and submitted them.  
13 That's what he just testified to, so,  
14 if you want to break it down --

15 MR. WEINBERGER: I'm asking,  
16 did he submit both timesheets.

17 MR. VALLETTI: Okay. So submit  
18 to who?

19 Q. Did you sign to the company,  
20 from April 2013, a timesheet for you and a  
21 timesheet for Manuel?

22 A. Yes.

23 Q. So you submitted two  
24 timesheets?

25 A. One as superintendent and the

1 N. ALMONTE

2 other one as handyman, that was Manuel.

3 Q. And you have a record saying  
4 that Manuel was the handyman from  
5 April 2013 to June 2013; any record,  
6 document?

7 A. Yes, Mr. --

8 Q. You got to slow down. Let him  
9 translate first. Charley Klahr?

10 A. Mr. Charlie Klahr --

11 THE INTERPRETER: I'm sorry. I  
12 lost it.

13 MR. WEINBERGER: Can you read  
14 back the question, and go slowly,  
15 please.

16 A. From April of 2013, when Manuel  
17 Almonte, as superintendent, went over to  
18 become handyman, Mr. Charley Klahr asked me  
19 to make a timesheet different from that of  
20 the super as handyman, which are different  
21 positions, or employer. I don't know  
22 exactly.

23 MR. VALLETTI: Roving.

24 A. Roving employees, that's what  
25 it heads at the top of the timesheets. But

1 N. ALMONTE  
2 that was something so as to fill out some  
3 space within the company, I don't know  
4 what, or to justify the transfer, Manuel  
5 Almonte's transfer from super to handyman.  
6 I never received for those timesheets, nor  
7 did Manuel Almonte receive a check for  
8 those hours that were worked as handyman in  
9 the name of Manuel Almonte.

10 Q. Okay. Let's break that down.  
11 And do you understand -- again, I'm just  
12 going to repeat the last time. You're here  
13 to tell the truth. Do you understand that?  
14 Right?

15 MR. VALLETTI: Note my  
16 objection. Asked and answered. You  
17 could move on, Stu. He's telling the  
18 truth, so let's go.

19 MR. WEINBERGER: He's telling  
20 the truth?

21 MR. VALLETTI: Yes, he's  
22 telling the truth.

23 MR. WEINBERGER: Absolutely he  
24 is.

25 MR. VALLETTI: Do you have

1 N. ALMONTE

2 something to say on the record,  
3 Mr. Klahr?

4 MR. WEINBERGER: No, he's not  
5 allowed to say.

6 MR. VALLETTI: Well, he just  
7 said, yes, he is.

8 Just let the record reflect  
9 that Charley Klahr said yes, he's  
10 lying, or something to that effect.

11 MR. WEINBERGER: He's not  
12 supposed to comment.

13 MR. VALLETTI: Okay. That's  
14 good.

15 MR. WEINBERGER: No comments,  
16 please. We're doing this in a civil  
17 way. Everybody conducts themselves  
18 civilly and that's the way it always  
19 should be conducted.

20 Q. Now, let's go back to this.

21 Is it your testimony that you  
22 weren't given extra work, you, Mr. Nestor  
23 Almonte, to do extra work at 1195 Sherman  
24 avenue and other buildings, in 2013?

25 A. Since December of 2011, with



1 N. ALMONTE

2 Manuel Almonte as superintendent of 437  
3 Morris Park, a hundred dollars would  
4 also -- a hundred dollars the more were  
5 also given him so as to work at Sherman.

6 Q. A hundred dollars for who?

7 A. Manuel Almonte.

8 Q. So, Manuel Almonte worked at  
9 1195 Sherman Avenue? Is that your  
10 testimony?

11 A. Yes.

12 Q. Okay, keep going. I'm -- but  
13 I'm talking about 2013. So, let's go back  
14 to 2013.

15 A. Okay.

16 Q. You answered something, so  
17 please try -- wait, wait, wait. Calm down.  
18 Let's go slow. Easy. Everybody -- I know  
19 it's long. You have to listen to the  
20 question. We're talking about the roving  
21 timesheet in 2013, okay? So, we're talking  
22 about that time. We're not talking about  
23 2011. We're going to get to that, if we  
24 can, if we can finish this.

25 Now, in 2013 you testified that

1 N. ALMONTE

2 there was a roving timesheet for handymen,  
3 for the time Manuel was a handyman. Do you  
4 have any copies of that roving timesheet  
5 which shows that Manuel was the handyman?

6 A. I don't have it with me. I  
7 would have to go and check and see some  
8 documents that I have. And you must  
9 remember one thing. I did not make a copy  
10 of each document. It's many of them, but  
11 not to each of them.

12 Q. Okay. We're going to go  
13 through -- we're going to go through this  
14 in a second. So, is it -- so on -- and  
15 we're going to go through specific ones,  
16 so, you can take a look at them. So, your  
17 testimony is just -- and let me break it  
18 down, just so I understand.

19 From April through June or  
20 in -- Mr. Manuel Almonte stopped working;  
21 he would go to other buildings and fill out  
22 a roving timesheet; is that correct?

23 A. No, because he was no longer  
24 working for the company.

25 Q. I'm talking about from April --

1 N. ALMONTE

2 you got to listen to the question, please.

3 From April 2013 through  
4 June 2013, was a roving timesheet filled  
5 out by you or anybody else, for work that  
6 Manuel did?

7 A. Yes.

8 Q. And that work was done on this  
9 roving timesheet, your testimony is you  
10 didn't do the work, Manuel did the work?  
11 And referring again to this April and  
12 June 2013.

13 A. No. From April, Manuel did not  
14 again return to Sherman. That's in 2013.

15 Q. Okay. Did Manuel -- let's  
16 clear this up again.

17 Did Manuel work outside the  
18 building in April 2013 through June of  
19 2013?

20 A. I don't remember exactly.

21 Q. Did you work outside the  
22 building from June -- April 2013 to  
23 June 2013?

24 A. Yes.

25 Q. Did you keep a time record of

1 N. ALMONTE

2 that?

3 A. Of course.

4 Q. And did you sign your name as  
5 Manuel or Nestor Almonte when you kept the  
6 record between April of 2013 and June of  
7 2013?

8 A. I would sign my own name,  
9 Nestor Almonte. I was already the super.

10 Q. So, you signed on these roving  
11 timesheets Nestor Almonte?

12 A. Yes.

13 Q. And Manuel Almonte never  
14 completed a roving timesheet from April of  
15 2013 through June of 2013?

16 A. Yes, Manuel Almonte did  
17 complete timesheets from April of 2013 to  
18 June of 2013.

19 Q. Was it a roving timesheet  
20 completed by Manuel Almonte or a different  
21 timesheet? What timesheet was signed by  
22 Manuel Almonte?

23 MR. VALLETTI: Just note my  
24 objection. He could answer.

25 A. After April it was the roving.

1 N. ALMONTE

2 I would do the super.

3 Q. Did Manuel Almonte do the work  
4 stated on these roving timesheets?

5 A. Yes.

6 Q. So, these roving timesheets  
7 said there was work at buildings, like 1195  
8 Sherman Avenue, right? So, he did the work  
9 there?

10 A. It's possible. But I don't  
11 remember exactly, but it is possible.

12 Q. So, if he did the work, Manuel,  
13 you didn't do the work then in these  
14 buildings that were stated on the roving  
15 timesheet; correct?

16 A. Not the same work. He would do  
17 one, I would do another.

18 Q. And those were listed -- each  
19 one was listed on a timesheet submitted  
20 with Manuel, this roving timesheet, all the  
21 work you did and he did were submitted on  
22 these roving timesheets, correct, on the  
23 same timesheet? Let's reask the question.

24 All the work you did and all  
25 the work that Manuel did were submitted on

1 N. ALMONTE

2 one roving timesheet; is that correct?

3 A. No.

4 Q. So you submitted a roving  
5 timesheet in your name?

6 A. Yes.

7 Q. Do you have a copy of a roving  
8 timesheet, or copies, just for one period,  
9 that were produced, where you signed the  
10 roving timesheet and Manuel has a roving  
11 time sheet? Do you have a -- and we're  
12 talking again in April to June 2013.

13 MR. VALLETTI: Hold on. Let  
14 him translate for you.

15 I'm going to note an objection.

16 You could answer. It's okay.

17 Just let him translate that.

18 If we could have a read back  
19 for all of that, please.

20 (Whereupon, the referred to  
21 portion of the record was read back  
22 by the reporter.)

23 A. From April of 2013 to June of  
24 2013, three timesheets would be filled out.

25 Nestor Almonte would fill out the 437

1 N. ALMONTE

2 Morris Park as superintendent. Nestor  
3 Almonte would fill out a roving timesheet  
4 and that Manuel Almonte would fill out  
5 another timesheet in his own name, so,  
6 there were three timesheets. That's when I  
7 became superintendent. I continued filling  
8 out one as super and one as rover. It was  
9 demanded that Manuel would fill out one as  
10 rover.

11 Q. Okay. I'm going to get --  
12 demand it again. I didn't -- you have to  
13 listen. We're going to be here forever. I  
14 asked if you had copies. I didn't ask for  
15 an explanation. Please. I'm not badgering  
16 you. Just answer the question.

17 I asked, do you have copies for  
18 any one time week where you -- for any one  
19 week where you submitted -- or withdrawn --  
20 where you have a copy of a time -- roving  
21 timesheet from Manuel, signed by Manuel, a  
22 timesheet -- a roving timesheet that you  
23 submitted and you have, and a timesheet for  
24 the hours at 437 Morris Park?

25 MR. VALLETTI: Note my

1 N. ALMONTE

2 objection to form.

3 A. It's possible. I'm not sure,  
4 but it is possible.

5 Q. Have you produced that to us?

6 A. You must check for that. I  
7 don't know. I handed over so many of them,  
8 I don't know. If they're not there, I  
9 would have to go look for them.

10 Q. When did -- in June did he --  
11 did your son stop working?

12 A. It was in June. I don't know  
13 the day.

14 MR. WEINBERGER: Can we mark  
15 this?

16 (Whereupon, Defendants' Exhibit  
17 G, superintendent timesheet, was  
18 marked for identification as of this  
19 date by the reporter.)

20 Q. I just want to show you that.  
21 First of all, whose signature is that on  
22 the bottom, if you recognize -- have you  
23 ever seen it before? Let's start there.

24 A. Are you asking whether I've  
25 seen it before?



1 N. ALMONTE

2 Q. Yes.

3 A. Of course I have.

4 Q. Whose signature's that on the  
5 bottom?

6 A. That's my signature.

7 Q. Now, who did --

8 A. It's the same one that I have  
9 in every document of my own.

10 Q. Okay. Who did the work below  
11 there, in the bottom where it says -- I'm  
12 doing it backwards -- "leaving the  
13 premises"?

14 A. Monday, May the 20th, I work  
15 from 4 p.m. up to 8 p.m. at Manor, the  
16 Manor building, at Apartment 4, 4B, and  
17 Mr. Pedro Medina worked there with me.

18 Q. Was there another roving  
19 time -- do you know for that week -- I'm  
20 just asking -- picking out a week. Did you  
21 have another roving timesheet for that  
22 week?

23 A. Of course I did. Yes.

24 Q. And you filled it out?

25 A. Yes.

1 N. ALMONTE

2 Q. And there's another one for --  
3 filled out by Manuel Almonte for that week?  
4 Is that your testimony?

5 A. Yes. Me? Yes.

6 Q. Let's go through the  
7 timesheets. Manuel Almonte signed all of  
8 the timesheets, is that correct, when he  
9 was the superintendent? Yes or no?

10 MR. VALLETTI: Note my  
11 objection.

12 A. Yes.

13 Q. Okay. Thank you. Let's just  
14 start with the year 2011. I'd like to  
15 go -- it's Bates stamped 000 to 013. Just  
16 take a look at this.

17 (Whereupon, Defendants' Exhibit  
18 H, 2011 timesheets Bates stamped 000  
19 to 013, was marked for identification  
20 as of this date by the reporter.)

21 Q. First, have you ever seen these  
22 timesheets?

23 A. Yes, yes. What is it that you  
24 wish to know regarding this?

25 Q. I just asked if --

1 N. ALMONTE

2 MR. VALLETTI: Can you just  
3 repeat the question, Stu? Maybe he  
4 forgot.

5 MR. WEINBERGER: I didn't ask.  
6 I just asked did he ever see these  
7 before.

8 Q. Let's start at the front.  
9 Whose signature is on the first timesheet?

10 A. That's my signature.

11 Q. So you signed the first  
12 timesheet?

13 A. I started to do it like that.  
14 I wanted to be responsible about it and it  
15 was then that the manager demanded this of  
16 me. If Manuel Almonte's name showed there,  
17 it must be signed by Manuel Almonte.

18 MR. VALLETTI: Just listen to  
19 his question.

20 Q. Let's just go through this.  
21 You signed this timesheet, yes, the first  
22 one, zero. What about the second?

23 A. Manuel Almonte.

24 Q. Next. What about the third?

25 A. Manuel Almonte.

1 N. ALMONTE

2 Q. Well, how did you know who --  
3 when did you decide you would sign it and  
4 he would sign it? How did you  
5 differentiate out when you would sign it  
6 and he would sign it?

7 MR. VALLETTI: Let him  
8 translate.

9 Just note my objection that  
10 that was asked and answered, but if  
11 he wants to answer again, he can. It  
12 was asked and answered.

13 MR. WEINBERGER: That was never  
14 asked.

15 MR. VALLETTI: That's your  
16 opinion. Go ahead.

17 A. When Manuel was not present, I  
18 would sign his name. This is the proof of  
19 it right here. I signed my name when  
20 Manuel's name was actually on the  
21 timesheet. I was told that I could not  
22 repeat this, and so we went on to have  
23 Manuel Almonte's name and Manuel Almonte's  
24 signature.

25 Q. Who told you you couldn't

1 N. ALMONTE

2 repeat this?

3 A. Charley Klahr.

4 Q. What did he say to you and when  
5 did he say that, that you had to sign the  
6 timesheet in the name of Manuel?

7 A. When I made the error of  
8 signing it with my own name, putting down  
9 my own signature. That's my signature.

10 Q. And you never signed -- that  
11 name never appeared again in any of those  
12 timesheets? You never signed another one  
13 after the first one, is that correct, using  
14 Manuel Almonte's name; is that correct?  
15 Yes or no?

16 MR. VALLETTI: Just note my  
17 objection. I don't understand the  
18 question. If he doesn't understand  
19 it --

20 MR. WEINBERGER: You can't --

21 MR. VALLETTI: I don't  
22 understand it. I didn't get it. So,  
23 if I don't understand it --

24 MR. WEINBERGER: Well, we could  
25 read the question -- I think it's

1 N. ALMONTE

2 pretty obvious, and you can't do  
3 that, but all right.

4 Q. In any event, you never signed  
5 your name again after the first timesheet;  
6 is that correct? And you signed Manuel  
7 Almonte again after the first timesheet?  
8 Yes or no?

9 A. I don't remember. It may be  
10 that it was so, maybe not so. If I did do  
11 it again -- if I did repeat it, then once  
12 again, they called it to my attention.

13 Q. Who called it to your  
14 attention?

15 A. The manager.

16 Q. So, the manager would go over  
17 the timesheets for who signed it as long  
18 as -- is that correct, as far as you  
19 understand?

20 A. Supposedly, yes.

21 Q. Not supposedly. I said to your  
22 knowledge.

23 A. I don't know because I don't  
24 know what he does. But if -- but if he  
25 would call it to my attention on some

1 N. ALMONTE

2 occasions, that's because he noticed that  
3 detail.

4 Q. Where did you submit these  
5 timesheets?

6 A. They would be sent by fax to  
7 some fax number to the --

8 Q. To the payroll company to be  
9 paid; correct?

10 A. (Witness nodding.)

11 Q. So, the manager would not even  
12 see this -- well, you're shaking your head.

13 Did the manager see the  
14 timesheets before they were faxed to the  
15 payroll company?

16 A. Yes.

17 Q. You continued to sign, in 2012,  
18 on occasion, these timesheets; correct?

19 A. Using my signature?

20 Q. Using Manuel Almonte's name,  
21 did you --

22 A. Of course.

23 Q. And you continued to do that in  
24 2013?

25 A. Whenever Manuel would not be

1 N. ALMONTE

2 present, I would sign it. I would sign it  
3 by order of the manager.

4 Q. Manuel was -- it's confusing.  
5 Why wouldn't Manuel be present if he was  
6 your shadow?

7 A. Trying to gain time on the  
8 work, he would be making progress on some  
9 painting work or something in an apartment.

10 Q. When were those pay sheets  
11 supposed to be submitted, timesheets  
12 submitted to the company?

13 A. When the work would come to a  
14 close, when it would be closed.

15 Q. What date?

16 A. That varied. At the beginning  
17 it was done on some day that I don't  
18 remember; then later on it would be on  
19 Tuesdays at night. I think at the  
20 beginning it was on Wednesday, then  
21 afterwards it was Tuesday.

22 Q. And you'd submit them at what  
23 time at night?

24 A. Different times.

25 Q. After work -- after 5 o'clock?



1 N. ALMONTE

2 A. Yes.

3 Q. It may be 7, 8 o'clock at  
4 night?

5 A. Yes.

6 Q. So, Manuel, at 7, 8 o'clock at  
7 night, was unavailable because he was  
8 painting an apartment? Is that your  
9 testimony?

10 A. I never said that. I never  
11 said that he was not available in order to  
12 send this fax. I said if he was not  
13 available in order to sign at the time in  
14 which it -- they would be signed. The fax  
15 would be sent out at 8 p.m. Many times it  
16 would be sent out the next day because the  
17 fax had defects with it and you would hear,  
18 "I didn't receive it. Send it again."

19 Q. So, Manuel had plenty of  
20 opportunity then to sign it, right, if it  
21 was sent out at night or in the morning;  
22 correct?

23 MR. VALLETTI: Just note my  
24 objection.

25 A. In order to fax this, nothing

1 N. ALMONTE

2 had to be signed. It was just a matter of  
3 faxing.

4 Q. So, why couldn't Manuel sign  
5 these sheets at night if they didn't have  
6 to be faxed at night?

7 A. I repeat.

8 Q. Okay.

9 A. This did not have to be signed  
10 in order to be faxed at night. What was it  
11 that he had to sign? You tell me.

12 Q. Weren't the signed timesheets  
13 faxed at night -- yes -- to the company or  
14 later -- the payroll company? Yes or no?

15 A. Yes.

16 Q. Okay. So why couldn't --

17 A. But they didn't -- you -- they  
18 didn't have to be signed. That had to be  
19 faxed. Each timesheet had to be signed by  
20 the time the scheduled time was finished.

21 Q. Okay. Why couldn't Manuel sign  
22 the timesheets at night before they were --  
23 or in the following morning, before they  
24 were faxed to the payroll company if you  
25 were told you shouldn't sign your name?

1 N. ALMONTE

2 MR. VALLETTI: Just note my  
3 objection. Asked and answered.

4 A. Sir, this is a schedule to be  
5 followed and the timesheet is signed. The  
6 timesheet of the superintendent did not  
7 have to be signed by anyone except by the  
8 super. The rovers were signed by the  
9 super, but I did not have to have a witness  
10 to sign my timesheet. No one had to sign  
11 it for me. If Manuel --

12 MR. WEINBERGER: What was the  
13 translation for that?

14 A. If Manuel did not sign a  
15 timesheet, it was because he wasn't there.  
16 Not the rovers. The rovers, he signed  
17 them.

18 Q. Why couldn't Manuel sign the  
19 timesheet and fax it?

20 A. I don't understand. I don't  
21 understand.

22 Q. I'm going to ask you to answer  
23 the question. What do you not understand  
24 about this question?

25 A. Nothing.

1 N. ALMONTE

2 Q. Nothing?

3 A. Nothing.

4 Q. You don't understand this  
5 question, okay. So you have no idea why  
6 this could not have been signed by Manuel  
7 and then faxed to the company? You have no  
8 idea why?

9 A. Who said he didn't do that?

10 MR. VALLETTI: Off the record.

11 (Whereupon, a discussion was  
12 held off the record.)

13 (Whereupon, a brief recess was  
14 taken.)

15 Q. Did Manuel Almonte know how to  
16 work a fax machine, if you know, in 2011?

17 MR. VALLETTI: Just note my  
18 objection. He could answer, if he  
19 knows.

20 A. I told him how to use it and  
21 he, many times, did send the faxes.

22 Q. Okay.

23 A. Many times.

24 Q. So, he sent these fax -- did he  
25 fax in the timesheets or did you fax in the

1 N. ALMONTE

2 timesheets?

3 A. Both of us. He and I.

4 MR. VALLETTI: Stu, I need a  
5 minute.

6 MR. WEINBERGER: Just, off the  
7 record.

8 (Whereupon, a discussion was  
9 held off the record.)

10 MR. WEINBERGER: Mr. Almonte  
11 has indicated that he must leave and  
12 we, you know, obviously cannot do  
13 anything about that.

14 (Continued on next page to  
15 include jurat.)

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1 N. ALMONTE

2 MR. WEINBERGER: He has agreed  
3 to continue the deposition on  
4 February 25th, at 2 o'clock in the  
5 afternoon, in this office and  
6 that's -- I guess we're off the  
7 record until the next time.

8 (Whereupon, at 2:30 p.m., the  
9 examination of this witness was  
10 adjourned.)

11

12

13 \_\_\_\_\_  
NESTOR ALMONTE

14

15 Subscribed and sworn to before me  
16 this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_.

17

18 \_\_\_\_\_  
NOTARY PUBLIC

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1 N. ALMONTE

2 I N D E X

3

4 EXAMINATION BY PAGE

5 MR. WEINBERGER 77

6

7 INFORMATION AND/OR DOCUMENTS REQUESTED

8 INFORMATION AND/OR DOCUMENTS PAGE

9 Marriage certificate 79

10

11 E X H I B I T S

12 DEFENDANTS' EXHIBITS:

13 EXHIBIT EXHIBIT PAGE

14 LETTER DESCRIPTION

15 G Superintendent timesheet 143

16 H 2011 timesheets Bates

17 stamped 000 to 013 145

18

19 QUESTIONS MARKED FOR A RULING

20 (NONE MARKED)

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N. ALMONTE

C E R T I F I C A T E

STATE OF NEW YORK            )  
  :   SS.:  
COUNTY OF BRONX            )

I, SCOTT TORRANCE, a Notary Public  
for and within the State of New York, do  
hereby certify:

That the witness whose examination is  
hereinbefore set forth was duly sworn and  
that such examination is a true record of  
the testimony given by that witness.

I further certify that I am not  
related to any of the parties to this  
action by blood or by marriage and that I  
am in no way interested in the outcome of  
this matter.

IN WITNESS WHEREOF, I have hereunto  
set my hand this 20th day of February 2015.



---

SCOTT TORRANCE



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UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK  
-----X  
NESTOR ALMONTE,  
  
PLAINTIFF,  
  
-against- Case No.:  
14-CV-5951  
  
437 MORRIS PARK, LLC D/B/A F&T MANAGEMENT  
CO., 1195 SHERMAN AVE., SHERMAN MANAGEMENT  
CO. D/B/A SHERMAN MANAGEMENT ASSOCIATES,  
LLC, CHANINA KLAHR, KALMAN TABAK and  
ABRAHAM FINKELSTEIN,  
  
DEFENDANTS.  
-----X

DATE: February 25, 2015  
TIME: 2:12 P.M.

CONTINUED DEPOSITION of the  
Plaintiff, NESTOR ALMONTE, taken by the  
Defendants, pursuant to Request and to the  
Federal Rules of Civil Procedure, held at  
the offices of Goldberg and Weinberger,  
LLP, 630 Third Avenue, New York, New York  
10017 before Anita M. Trombetta, Registered  
Professional Reporter and Notary Public of  
the State of New York.

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A P P E A R A N C E S:

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and  
BY: ANNETTE ALETOR, ESQ.

ALSO PRESENT:

CARMEN CARBONELL  
Spanish Interpreter  
Star Interpreting

CHANINA KLAHR

\* \* \*

1

## 2 F E D E R A L S T I P U L A T I O N S

3

4

5 IT IS HEREBY STIPULATED AND AGREED by and  
6 between the counsel for the respective  
7 parties herein that the sealing, filing and  
8 certification of the within deposition be  
9 waived; that the original of the deposition  
10 may be signed and sworn to by the witness  
11 before anyone authorized to administer an  
12 oath, with the same effect as if signed  
13 before a Judge of the Court; that an  
14 unsigned copy of the deposition may be used  
15 with the same force and effect as if signed  
16 by the witness, 30 days after service of  
17 the original & 1 copy of same upon counsel  
18 for the witness.

19

20 IT IS FURTHER STIPULATED AND AGREED that  
21 all objections except as to form, are  
22 reserved to the time of trial.

23

24

\* \* \* \*

25

1 N. ALMONTE

2 C A R M E N C A R B O N E L L, a Spanish  
3 interpreter, solemnly swore to translate  
4 the following questions from English to  
5 Spanish and answers from Spanish to  
6 English:

7 N E S T O R A L M O N T E, called as a  
8 witness, having been first duly sworn,  
9 through an interpreter, by a Notary Public  
10 of the State of New York, was examined and  
11 testified as follows:

12 EXAMINATION BY

13 MR. WEINBERGER:

14 Q. Please state your name for the  
15 record.

16 A. Nestor Almonte.

17 Q. What is your address?

18 A. 4536 Park Avenue, Apartment 12,  
19 Weehawken, New Jersey 07086.

20 Q. I'm going to ask you some  
21 questions. If you don't understand a  
22 question, please tell me. If you do not  
23 understand a question, I will rephrase it.  
24 If you answer the question, I'm going to  
25 assume you understand the question. Yes?

1 N. ALMONTE

2 A. Yes.

3 Q. You can't nod.

4 A. Okay.

5 Q. Are you taking any medication  
6 today which would prevent you from  
7 answering questions?

8 A. No.

9 Q. Is there any reason why you  
10 can't answer questions truthfully?

11 A. No.

12 Q. Who is Juan Diaz?

13 A. I have no idea.

14 Q. Is he an individual likely to  
15 have knowledge of this case, anybody by the  
16 name of Juan Diaz?

17 MR. VALLETTI: Just note my  
18 objection.

19 A. Not that I know of.

20 Q. Armando Diaz Hernandez, do you  
21 know this individual?

22 A. No.

23 Q. Did Armando Diaz Hernandez ever  
24 work at 437 Morris Park or 1195 Sherman or  
25 any place that you worked in?

1 N. ALMONTE

2 MR. VALLETTI: Objection to  
3 form.

4 A. Not that I know of.

5 Q. Do you have any idea why he was  
6 identified in your initial disclosures as  
7 somebody who would have knowledge of this  
8 case? I'm talking about Armando Diaz  
9 Hernandez.

10 A. No.

11 Q. Juan Diaz, did he ever work at  
12 1195 Sherman or 437 Morris Park or any  
13 other buildings you worked at?

14 A. That I know of. I've heard of  
15 Juan Mendoza. I haven't heard Juan Diaz.  
16 I don't know if it's the same person.

17 Q. Who is Juan Mendoza?

18 A. He was an employee that worked  
19 as a super at 1195 Sherman and he also  
20 worked as a handyman in some of the  
21 buildings of the company.

22 Q. Did he ever work with you,  
23 Juan Mendoza?

24 A. Yes, of course.

25 Q. Where?

1 N. ALMONTE

2 A. In different places.

3 Q. Did he ever work with  
4 Manuel Almonte?

5 A. I'm not sure.

6 Q. What employees, when you were  
7 employed at 437 Morris, 1195 Sherman, or  
8 1101 Manor Avenue, or 855 East Tremont,  
9 worked with Manuel Almonte, your son?

10 A. Various, various employees.

11 Q. Tell us who, name names, tell  
12 us when, and name names.

13 A. When? All the time, and names,  
14 I could give you the names right now.

15 Q. Tell me the name of the  
16 employees that work with you.

17 A. Jose Gonzalez, William Fuentes,  
18 Jonathan Tavares, Bernadino Tavares,  
19 Jonathan Duran, Wilfredo Nuñez. Those are  
20 the names I remember right now.

21 Q. Jose Gonzalez, what did he do  
22 at the building?

23 A. He was always the porter at  
24 437 Morris Park.

25 Q. So what work did he do with

1 N. ALMONTE

2 your son, Manuel Almonte?

3 MR. VALLETTI: Just note my  
4 objection, to the extent that he  
5 knows.

6 A. My son gave them orders of what  
7 to do, like cleaning-wise and he signed his  
8 time sheets.

9 Q. Did you ever see your son give  
10 Jose Gonzalez orders?

11 A. No, because if I was at the  
12 building, I was the one to give the orders.

13 Q. So did you ever see your son  
14 physically work with Jose Gonzalez?

15 A. My son did not do cleaning.

16 Q. William Fuentes, what did  
17 William Fuentes do?

18 A. Handyman.

19 Q. Where was he a handyman at?

20 A. In any building where it was  
21 needed.

22 Q. What work, if any, did you see  
23 your son do, and I'm talking about Manuel,  
24 with William Fuentes?

25 A. The same type of jobs that I



1 N. ALMONTE

2 did, Manuel was always there with me,  
3 helping me, following the work orders.

4 Q. So in other words, you and  
5 Manuel were always working together doing  
6 the same jobs; is that correct?

7 A. No.

8 Q. So who did the work, you or  
9 Manuel when you were working with  
10 William Fuentes?

11 A. There was some kind of job in  
12 the building that was needed, you know,  
13 whether it came to, you know, electricity  
14 or plumbing, if William and Fuentes and  
15 Manuel Almonte were painting or doing  
16 plaster, or I would be fixing there, doing  
17 the work to fix the pipe, they would paint  
18 there and put the plaster.

19 Q. Give me an apartment where this  
20 was done or any occasion where this  
21 happened where they worked together.

22 A. That's not in my mind. That's  
23 in the work orders. You would have to  
24 check the work orders and you'll see who  
25 did the work.

1 N. ALMONTE

2 Q. So if I look at these work  
3 orders. I'm going to ask you to compare  
4 the exhibit work orders.

5 (Whereupon, an off-the-record  
6 discussion was held.)

7 Q. Jonathan Tavares, what did he  
8 do?

9 A. Handyman also.

10 Q. When did he work in the  
11 building and which building did he work in?

12 A. I all the people I mentioned to  
13 you, they were all handyman and they were  
14 always working at the, all the buildings,  
15 437 Morris, 1101 Morris Manor [sic] and  
16 1056 Boynton, they were always all working  
17 in all the buildings. They weren't set  
18 employees except for the super and the  
19 porter in each building.

20 Q. So what work did your son do  
21 with Jonathan Tavares that you saw?

22 A. Basically, my son would always  
23 just do work relating to painting, because  
24 he's not a professional. He's not a  
25 professional in that field. He's not a

1 N. ALMONTE

2 plumber, he's not an electrician. Any kind  
3 of work that needed to be done like that, I  
4 would solve it. All the jobs that Manuel  
5 would do, as well as most of the handyman,  
6 it would be like cover any gaps or holes  
7 and paint.

8 Q. I'm going to ask the question  
9 again, what work did you see, see  
10 personally, see Manuel Almonte, your son,  
11 do with Jonathan Tavares? And if you can,  
12 be specific and give us an apartment.

13 A. There were too many jobs during  
14 two years, so that's not into my mind,  
15 that's in the work orders.

16 Q. So Jonathan Tavares worked  
17 there for two years, is that your  
18 testimony?

19 MR. VALLETTI: Note my  
20 objection. He did not say that.

21 MR. WEINBERGER: I think he  
22 did, but we'll ask him that.

23 THE WITNESS: What?

24 Q. Did Jonathan Tavares work for  
25 the company for two years?

1 N. ALMONTE

2 THE INTERPRETER: He's just  
3 saying that I want to know what my  
4 lawyer said. He's asking me the  
5 question, again.

6 (Whereupon, the referred-to  
7 question was read back by the  
8 reporter.)

9 THE WITNESS: No, that's not  
10 what I mean exactly. Basically when  
11 I said that he worked for two years,  
12 he worked -- my son worked with all  
13 of those people for two years with  
14 William Fuentes, Bernadino Tavares,  
15 Jonathan Duran, all the different  
16 workers, some of them for six months,  
17 some for other amounts.

18 Q. So your son was limited to  
19 doing the painting, the touchups, things  
20 like that?

21 A. Besides that, like a clogged  
22 toilet, like a leaking faucet. When it was  
23 those kind of jobs most of the time he was  
24 with me. I would give him instructions on  
25 how to do it.

1 N. ALMONTE

2 Q. And you would assign the work  
3 to your son; is that correct?

4 A. I would assign work to my son,  
5 yes, the same as with all the other  
6 employees. I would receive the work order  
7 and with the work order I would assign the  
8 job to each one.

9 Q. Did Mr. Klahr, to your  
10 knowledge, ever assign work to your son  
11 directly?

12 A. Not Mr. Klahr, no. It was  
13 always with me.

14 Q. Do you have anything in writing  
15 where you assigned work to your son?

16 A. It was notes that I would give  
17 to each worker and whenever they were done,  
18 I would check that with the work order and  
19 then it was garbage.

20 Q. I'd like to show you the work  
21 orders, and I want you to tell me where on  
22 any of these work orders, it says your son  
23 did any work (handing), and it's Bates  
24 stamped 123 through 328.

25 Do you understand what I'm

1 N. ALMONTE

2 asking you, where it says on there that  
3 your son did any work?

4 MR. VALLETTI: Let me see  
5 first.

6 Q. You identified another person,  
7 Bernadino Tavares?

8 A. Bernadino Tavares.

9 Q. What was his job?

10 A. Handyman.

11 Q. What work did your son do with  
12 Bernadino Tavares?

13 A. Again, I'd say all the jobs we  
14 got would all, had to stay in an apartment,  
15 would all stay there. Each one would do a  
16 certain job you, you know, you do the  
17 painting, you do the plaster, I'll cover  
18 this hole, and I will do the plumbing.

19 Especially when they had the  
20 DHS inspections, we would get a list of all  
21 the apartments that were about to be  
22 inspected, approximately ten apartments.

23 MR. VALLETTI: Is that  
24 consecutive? I just looked at the  
25 first and the last.

1 N. ALMONTE

2 MR. WEINBERGER: I hope it's  
3 consecutive.

4 Q. Can you tell us where in there,  
5 in these work orders where it says that  
6 your son did the work?

7 A. A lot of these jobs, like for  
8 instance where it says, "the super," where  
9 it says, "Two light bulbs needed," things  
10 like that, you see it says, "super," simple  
11 things like that, it was Manuel Almonte.

12 Q. You don't know that you're just  
13 saying, because it says the word "super,"  
14 you don't know if --

15 MR. VALLETTI: Objection.

16 Objection to form, you can answer.

17 MR. WEINBERGER: He can answer.

18 A. I know he did it, because  
19 simple jobs, like, for instance, changing  
20 light bulbs, you know, simple things like  
21 that, I wouldn't do that. I barely ever  
22 did something like that and if it wasn't my  
23 son who did it, the name of the handyman  
24 who did do it would be there. If it says  
25 "super," it was because it was him.

1 N. ALMONTE

2 Q. Did your son ever sign any of  
3 these work orders?

4 A. Where? The work orders don't  
5 need a signature, sign where?

6 Q. So there's no signature of your  
7 son on there?

8 A. Nobody.

9 MR. VALLETTI: Let the  
10 translator finish so the whole  
11 question can get recorded.

12 Q. And the work that was assigned  
13 on these work orders was assigned by you,  
14 correct?

15 A. Yes.

16 Q. Jonathan Duran, who is Jonathan  
17 Duran?

18 A. He worked like as a porter,  
19 like a porter/handyman.

20 Q. What work did he do with your  
21 son?

22 A. Any job that would coincide.  
23 Many times on certain occasions, I would  
24 say Jonathan and Manuel fixed this  
25 together. Most of the time Jonathan Duran,



1 N. ALMONTE

2 the short time he worked -- he worked in  
3 Boynton.

4 Q. Did you work with him on  
5 Boynton Avenue?

6 A. No.

7 Q. Who is Wilfredo Nuñez?

8 A. He was a handyman.

9 Q. And when did he work for the  
10 company and where did he work?

11 MR. VALLETTI: Objection to  
12 form. He can answer.

13 A. I don't have it in my mind  
14 right now, but it was in the period between  
15 2012 and 2013.

16 Q. Have you spoken recently to  
17 Jose Gonzalez?

18 A. It's been over a year that --  
19 no, that I know nothing about him.

20 Q. Did you ever discuss this case  
21 with him?

22 A. No, impossible.

23 Q. William Fuentes, when was the  
24 last time you spoke to him?

25 A. William Fuentes, when, maybe a

1 N. ALMONTE

2 year.

3 Q. Did you discuss this case with  
4 Mr. Fuentes?

5 A. I think, yes.

6 Q. What did you say to him and  
7 what did he say to you?

8 MR. VALLETTI: Objection to  
9 form.

10 A. He just asked me what happened  
11 and I said, "No, I don't work with the  
12 company anymore."

13 Q. Did you discuss that you were  
14 owed any money?

15 A. That I owed money?

16 Q. That you were owed money by the  
17 company for the time you worked here?

18 A. Yes.

19 Q. What did you say to him?

20 A. That if he could be a witness,  
21 since he worked there, in case it was  
22 needed, and he said yes.

23 Q. What else did you say to him?

24 A. In respect to that, nothing.

25 Q. Anything else said in this

1 N. ALMONTE

2 conversation?

3 A. No.

4 Q. And when was this conversation?

5 A. Maybe at the beginning of 2014.  
6 I don't know exactly.

7 Q. Anything else happen in that  
8 conversation?

9 A. No, we were on the street. We  
10 just kind of, you know, met up there and  
11 around the stores and we just spoke for  
12 like five, ten minutes.

13 Q. When is the last time you had a  
14 conversation with Jonathan Tavares?

15 A. When he left the company.

16 Q. Did you discuss this case with  
17 Jonathan Tavares?

18 A. No.

19 Q. What about Bernadino Tavares?  
20 When is the last time you spoke to him?

21 A. Also when he left the job.

22 Q. Do you know when?

23 A. I don't have the exact date,  
24 no.

25 Q. And have you had a conversation

1 N. ALMONTE

2 with him about this case?

3 A. No.

4 Q. Jonathan Duran, when is the  
5 last time you spoke to him?

6 A. He's my nephew. He lives  
7 outside of here. We speak over the phone  
8 frequently, but nothing to do with this.

9 Q. When did he work for the  
10 company?

11 A. That was in 2013, but I don't  
12 know the exact time right now in my mind.

13 Q. Was it after May of 2013?

14 A. I'm not sure. I'm not sure.

15 Q. Do you know if it was in the  
16 summer of 2013 that he worked at the  
17 building?

18 A. I don't remember exactly, but  
19 it was not winter, not winter. I don't  
20 know if it was spring, summer, or fall, but  
21 it was not winter.

22 Q. Wilfredo Nuñez, when was --  
23 well, let's go back to -- excuse me, Duran.  
24 What, if anything, you have said to Duran  
25 about this case?

1 N. ALMONTE

2 A. No, not about, this nothing.

3 Q. Okay. Wilfredo Nuñez, when was  
4 the last time you spoke to him?

5 A. The last time I saw him, maybe  
6 two months ago.

7 Q. And did you speak to him about  
8 this case?

9 A. I haven't spoken to anyone  
10 about this case. The only person I've  
11 spoken to about this case has been  
12 William Fuentes.

13 Q. Are you related to anybody else  
14 on this list, Mr. Gonzalez, Mr. Fuentes,  
15 Mr. Tavares, the two Tavareses, and  
16 Wilfredo Nuñez?

17 A. No.

18 Q. Have you asked any of these  
19 people, I just mentioned, plus Mr. Duran to  
20 be a witness in this case?

21 A. No, just William Fuentes.

22 Q. Do you know Abraham  
23 Finkelstein?

24 A. Yes, I know him.

25 Q. How do you know him?

1 N. ALMONTE

2 A. As the owner of the company.

3 Q. Have you had any conversation  
4 with Mr. Finkelstein about your work?

5 A. Various ones.

6 Q. Did Mr. Finkelstein ever assign  
7 work to you?

8 A. He tried a few occasions, yes.

9 Q. And you say "tried," what does  
10 that mean?

11 A. Well, even after I stopped  
12 working for the company, while I was, you  
13 know, in that process and I was fired and I  
14 still lived in the building, on some  
15 occasion he came to my house, he knocked on  
16 the door, and he asked me if we could go to  
17 the basement, because they were doing some  
18 construction and he wanted me to do some  
19 jobs.

20 I opened up a wall on an  
21 occasion. Yes, and I seen, told him, you  
22 know, that I'm not working for the company  
23 anymore, he said, "Don't worry. This is  
24 just for me personally."

25 Q. All right. For the time that

1 N. ALMONTE

2 you were working, did Mr. Finkelstein  
3 assign work to you?

4 A. In one occasion in 420  
5 Morris Park, it's like a parking lot,  
6 before being a parking lot, it had like  
7 some kind of wooden bars or beams and the  
8 wind kind of knocked them down, everything  
9 was rolling around on the sidewalk and he  
10 asked me to please pull -- put it all  
11 inside, and at that moment it was my son  
12 and I, and Jose Gonzalez also came and  
13 helped us.

14 Q. Did Mr. Finkelstein ever talk  
15 to your son, as far as you know?

16 A. Yes, various times.

17 Q. And what did he say, when you  
18 were there, just your personal knowledge?

19 A. Once I found them during a  
20 conversation, like, I would say in the  
21 yard, the backyard. And I asked my son,  
22 "What is Abraham telling you?" He said,  
23 "Oh, he's giving me instructions on how to  
24 use this machine to clean the boiler, it's  
25 like a pressure machine." And that if he

1 N. ALMONTE

2 did it at work, to let him know so he that  
3 he could tell the company so he could be  
4 able to use it.

5 And my son first asked me if --  
6 my son told me that he asked him if he was  
7 the new super and I answered, yes.

8 Q. When was this conversation?

9 A. That was 2012, but I don't know  
10 when.

11 Q. So again, Finkelstein asked  
12 your son if he was the new super when you  
13 were there?

14 A. I wasn't with them at that  
15 moment. I got there and they were having  
16 the conversation working with that machine,  
17 he was explaining to my son.

18 Q. So Mr. Finkelstein was  
19 explaining how to use what kind of machine?

20 A. It's a machine that -- you use  
21 to clean with pressure, like, it uses gas  
22 and stuff. It's -- it's to clean things  
23 that have like grease, like it's like hot  
24 water and gas.

25 Q. And can you describe



1 N. ALMONTE

2 Abraham Finkelstein.

3 A. He's a man like about my  
4 height. He's got his beard, like -- his  
5 age is, like, maybe around 60s. I don't  
6 know what else I could say.

7 Q. All right. Any other  
8 conversations that you had, that your son  
9 had with Mr. Finkelstein that you know  
10 about?

11 A. Well, basically it was that  
12 conversation and then the other one, the  
13 one they had at 420 Morris Park when we  
14 were all picking up all that stuff they  
15 were talking, they had various  
16 conversations some, like pick this up or  
17 pick that up, like that.

18 Q. But that's at 420 Morris Park?

19 A. Yes, across 437.

20 Q. What is the name of this  
21 machine that you were just describing?  
22 What is the name?

23 A. In Spanish, it's machine to  
24 clean with pressure.

25 Q. And is this the building's

1 N. ALMONTE

2 machine?

3 A. Yes, the building's.

4 Q. And did Mr. Finkelstein bring  
5 the machine out to the building, outside?

6 A. Yes, it was in the basement in  
7 the boiler and then he brought it out,  
8 outside and first he asked my son are you  
9 the super, when he said, yes, he said  
10 "Here, let me show you how to use this."

11 Q. Are you familiar with  
12 Mr. Tabak?

13 A. Kalman Tabak, yes.

14 Q. How often did Mr. Tabak go to  
15 the building, on average?

16 A. There were occasions when  
17 Kalman would go like twice a week.  
18 Sometimes it would be like two months that  
19 I wouldn't see him and sometimes in a week  
20 I would see him like every day, it would  
21 depend whether or not they were doing  
22 something in the building.

23 Q. How often did Mr. Finkelstein  
24 visit the building?

25 A. Almost the same as Kalman, but

1 N. ALMONTE

2 less frequency, but when they were doing  
3 the construction, like, for instance, when  
4 they were doing the construction of when  
5 there was a bodega before, like a store,  
6 before they was there like daily.

7 Q. And when was that?

8 A. In 2013, like between October,  
9 between October, November, and December.

10 Q. Did Mr. Tabak ever have a  
11 conversation with your son?

12 MR. VALLETTI: Just note my  
13 objection, but he can answer.

14 A. Not in my presence.

15 Q. Do you know if he had ever had  
16 a conversation with your son?

17 A. Not that I know of. If they  
18 did have one, it couldn't have been  
19 anything important, because my son would  
20 have told me about it.

21 Q. When you say "they," you're  
22 talking about who?

23 A. Mr. Tabak and Manuel Almonte.

24 Q. What about Mr. Finkelstein?

25 Other than that what conversation that you

1 N. ALMONTE

2 identified with the pressure machine, did  
3 Mr. Finkelstein have any other  
4 conversations with your son?

5 A. Like I mentioned before, in  
6 420 Morris Park, when we were cleaning up.

7 Q. Other than those two  
8 conversations, any other conversations?

9 A. Yes, when we were doing the  
10 ceramic in the apartment, we were going to  
11 live in, we were working, putting the tiles  
12 in the bedroom, Mr. Abraham arrived to the  
13 building and I remember him asking, "How is  
14 everything? Is everything okay? And how  
15 long are you going to be living here?"

16 I was there, on that occasion  
17 and I remember saying that, you know,  
18 whenever this is done, possibly this  
19 weekend, we're already going to be here.

20 Q. Anything else besides that  
21 conversation with Mr. Finkelstein?

22 A. Not that I remember.

23 Q. All right. Switching topics  
24 for a second here. Do you have any time  
25 records for yourself for the hours that you

1 N. ALMONTE

2 worked in 2011?

3 A. Records in paper with my name  
4 on it, no.

5 Q. I didn't ask that. I asked, do  
6 you have any records with anybody's name?

7 A. I don't have records.

8 Q. So you don't have any records.  
9 I don't care if that's your name. It could  
10 be the name of anybody. Do you have any  
11 records indicating the hours that you  
12 worked in 2011?

13 A. Okay. The time sheets that are  
14 under the name of "Manuel Almonte," like I  
15 said -- like I said, before, you know,  
16 Manuel Almonte was the same as  
17 Nestor Almonte.

18 Q. What does that mean, "the  
19 same"?

20 A. "The same" means that  
21 physically I was the person with the  
22 experience for the job, but the  
23 authorization to work in the United States  
24 was my son, the one that it had, not me.

25 Q. Okay. I'm going to ask it

1 N. ALMONTE

2 again and you have to answer the question.

3 This is really -- I've asked the

4 question --

5 MR. VALLETTI: But Stu, I think

6 he answered to best of his ability.

7 MR. WEINBERGER: That is

8 ridiculous. We're going to call the

9 judge up if we do it again. If --

10 MR. VALLETTI: So call it

11 then --

12 Q. Do you have a record of the  
13 hours you work in anybody's name in 2011,  
14 showing the hours that you worked? Yes or  
15 no?

16 A. I never worked under the name  
17 of anybody.

18 Q. I didn't ask that. I'm going  
19 to ask it again. Is there a record showing  
20 the hours that you worked. I don't care  
21 what name it's in. Is there a record, yes  
22 or no, in 2011 showing the hours you  
23 worked?

24 MR. VALLETTI: Objection to

25 "yes or no," if he doesn't know. He

1 N. ALMONTE

2 can say or whatever answer he feels  
3 is fit.

4 A. It's confusing because we've  
5 spoken about the same topic for various  
6 times now. Any timesheet that has the name  
7 "Manuel Almonte," belongs to Manuel Almonte  
8 and Nestor Almonte.

9 Q. What does that mean, "It  
10 belongs"?

11 A. What do you mean "belongs"?

12 Q. You used the phrase.

13 A. Any timesheet that has the name  
14 "Manuel Almonte," is the record of the  
15 hours worked by Manuel Almonte and  
16 Nestor Almonte. Remember that they used to  
17 pay a check that was divided among two  
18 people.

19 Q. When you say "it was divided,"  
20 the company never told you to divide the  
21 check, did they?

22 A. No, but there was two people  
23 working and only one would receive the  
24 check.

25 Q. Okay. I'm going to ask you a

1 N. ALMONTE

2 question. Again, let's just do it slowly.

3 Let's start with May of 2011, how much did

4 you get paid a week?

5 A. May 2011, \$400 a week was the  
6 check made out every week to Manuel Almonte  
7 and Nestor Almonte.

8 Q. Okay. I'm going to ask you  
9 again, how much money did you receive --  
10 I'll ask it differently, did you receive in  
11 May of 2011 each week for working in the  
12 building?

13 A. If it was \$400, it would be  
14 \$200 for Manuel and \$200 for me, you know,  
15 because the check was for 400, so half.

16 Q. Who decided to pay the half?  
17 Who decided to divide the money up in half?

18 A. It was a decision made by both  
19 of us, my son and -- Manuel Almonte and  
20 Nestor Almonte, me.

21 Q. Do you have any evidence that  
22 the money was divided up between you and  
23 your son that way?

24 A. No.

25 Q. Okay. Now, let's go back



1 N. ALMONTE

2 though the time sheets, let's do '12?

3 MR. VALLETTI: We're going to  
4 have two '12 time sheets.

5 MR. WEINBERGER: Yes.

6 Q. We're looking at Bates stamps  
7 14 through 62. Have you seen those before  
8 (handing)?

9 A. That's '14. It says 2012.

10 Q. No, that's the Bates stamp  
11 number -- ignore what we said. That's the  
12 Bates stamp number. Ignore the bottom  
13 part.

14 MR. VALLETTI: He's referencing  
15 what's up here. These are the 2012  
16 time sheets.

17 THE WITNESS: Okay.

18 Q. Have you ever seen these  
19 before? Did you want to go through and  
20 see?

21 A. Yes, they're copies of the  
22 original time sheets of work.

23 Q. So those reflect the hours that  
24 you worked in 2012; is that correct?

25 A. Not all the hours because

1 N. ALMONTE

2 there's hours that were not written down  
3 there, because remember, we worked with a  
4 hotline and also Saturday, Sunday, you  
5 know, so none of that is there.

6 I'm sorry to use this word in  
7 English. I don't know how it say it in  
8 Spanish, these time sheets reflect the  
9 regular schedule between 40, 50 hours a  
10 week. We used to work, especially me,  
11 approximately 70 hours a week and that's  
12 like not exaggerating.

13 Q. Okay. You're not exaggerating,  
14 you worked 70 hours a week?

15 A. Yes.

16 Q. And you have a record of you  
17 working 70 hours a week?

18 A. I can't have the record. The  
19 record was on the phone. The calls that  
20 were made for work. And that -- that phone  
21 is the company's. When I was fired from  
22 the company about a month after, they sent  
23 for the phone, so I gave it back. But the  
24 company should have the record of the  
25 hotline phone calls.

1 N. ALMONTE

2 Q. Hotline, by the way, stopped at  
3 12:00 at night; is that correct?

4 A. That never stopped.

5 Q. What is the "hotline"?

6 A. It's a -- it's something with  
7 like an emergency phone number, like 911.  
8 When there's an emergency in one of the  
9 buildings, regardless of what time, the  
10 client would notify security. Many times  
11 if they didn't know the number, they would  
12 notify the security. And if they knew the  
13 hotline phone number, they called directly.

14 Q. So it's your testimony that you  
15 wouldn't write down if you worked on  
16 Saturday and Sunday, right?

17 A. There was a time when the  
18 manager -- the manager made it mandatory  
19 that I write that I work three hours, like  
20 an hour and a half in the morning, like an  
21 hour and a half in the afternoon.

22 Q. So --

23 A. And I worked more than that,  
24 but I would write down, no problem, I said.

25 Q. You worked more than that,

1 N. ALMONTE

2 right? Weren't you in charge, by the way,  
3 of keeping accurate time sheets? Wasn't  
4 that your job as the super to make sure  
5 everybody submitted an accurate timesheet?

6 A. Can you just repeat the  
7 question.

8 Q. Wasn't it the job of you, as  
9 superintendent, to make sure you submitted  
10 an accurate timesheet?

11 A. For the regular handyman.

12 Q. And by the way, is it your  
13 testimony, just so it's clear, that you  
14 were told that, that you were told that you  
15 had to write down time, yes or no, of all  
16 the hours you worked? Were you ever told  
17 you had to write down all the times and all  
18 the hours that you worked?

19 MS. ALETOR: We didn't mark  
20 these as an exhibit.

21 A. Yes, once the manager told me,  
22 you know, because I said, you know, we got  
23 some call from the hotline, and he said:  
24 "Okay. Write down some certain amount of  
25 hours we have to reach to at least

1 N. ALMONTE

2 53 hours," or something like that.

3 Q. So you were told, by the way,  
4 you were told to write down, weren't you,  
5 every hour that you worked, were you not,  
6 by Mr. Klahr?

7 A. Yes, while I have the phone  
8 that is the company's, that means that I'm  
9 working with the hotline directly. Any  
10 calls coming through the hotline, I have to  
11 answer.

12 Q. And you were told after you  
13 worked or when you worked, you were told to  
14 write down your time like every other  
15 employee was supposed to write down his or  
16 her time they worked; is that correct?

17 A. No, because when I complained  
18 about this -- no, they told me, "No, you  
19 have to be aware that you have an apartment  
20 that you don't pay rent for. The rent of  
21 the apartment pays for those hours. Just  
22 like you don't have to pay a rent, you  
23 can't complain about hours or claim hours,  
24 because you're not paying rent."

25 Q. Who said that and when was that

1 N. ALMONTE

2 said?

3 A. That was the manager,  
4 Mr. Charlie Klahr and that was the manager  
5 -- he was the manager.

6 Q. When?

7 A. Since I started working as a  
8 super.

9 Q. When? Give me a date, a time.

10 A. Since February 2011, February,  
11 March.

12 Q. By the way, wasn't it Mr. Klahr  
13 who texted you the hotline calls?

14 A. Yes, it's correct.

15 Q. And no hotline company  
16 contacted you directly; isn't that true?

17 A. No, I'm saying hotline, because  
18 there was a hotline, but the person who  
19 sent me the text was Mr. Charlie Klahr.

20 Q. Oh, so Mr. Klahr would then  
21 have an idea of how many hours you worked  
22 during the week; is that correct, of this  
23 extra time?

24 A. Of course.

25 Q. Of course. So let's just go

1 N. ALMONTE

2 through the weeks, but before we do that,  
3 week by week, let's just do this: Did you  
4 have a meeting in 2011 with Mr. Klahr at  
5 the end of 2011 about overtime hours and  
6 other pay, other monies that you may be  
7 owed for 2011?

8 A. No.

9 Q. And you never signed a letter  
10 or handed anything in about monies that you  
11 were owed for purchasing certain items, you  
12 don't remember that?

13 (Whereupon, time sheets were  
14 marked as Defendants' Exhibit I for  
15 identification as of this date by the  
16 reporter.)

17 A. Things that I bought that they  
18 had to reimburse me for that, I can say  
19 that I was always reimbursed for whatever.

20 MR. VALLETTI: By the way, did  
21 we mark what was earlier, 2014? What  
22 about the one before that?

23 MS. ALETOR: That wasn't marked  
24 the one before that, you just showed  
25 him.

1 N. ALMONTE

2 MR. WEINBERGER: The work  
3 orders, that would be Exhibit J.

4 (Whereupon, work orders were  
5 marked as Defendants' Exhibit J for  
6 identification as of this date by the  
7 reporter.)

8 Q. I'd like to show what you 363,  
9 364, and 365. We'll mark it as the next  
10 exhibit.

11 (Whereupon, documents Bates  
12 stamped 363, 364, 365 were marked as  
13 Defendants' Exhibit K for  
14 identification as of this date by the  
15 reporter.)

16 Q. Mr. Almonte, I'd like to show  
17 you what has been marked as Exhibit K.

18 MR. VALLETTI: Just let the  
19 record reflect it's a three-page  
20 document. The first one is cut off,  
21 I'm assuming it's 363, 364, and 365,  
22 Bates stamp number. And as far as  
23 Exhibit I goes, we have Bates number  
24 14 to Bates number 62. And Exhibit  
25 K, could you just read off those



1 N. ALMONTE

2 Bates, Stu, just for the record.

3 MS. ALETOR: 123 to 328.

4 Q. Have you seen those documents  
5 before?

6 A. Of course, yes.

7 Q. Did you sign your name to those  
8 documents?

9 A. My son's name, yes. I was the  
10 one who wrote it.

11 Q. And did you discuss with  
12 Mr. Klahr the issue of overtime?

13 A. No, you have to see, you have  
14 to see this, it's about work or what? I  
15 have to save my job. I can't tell -- I  
16 can't tell him, look, Mr. Charlie Klahr,  
17 you owe me money because of the work,  
18 because I don't have the documents to work  
19 in the United States. Every employee would  
20 sign this to keep their jobs at the end of  
21 the year.

22 Q. Did Mr. Klahr tell you that?

23 A. He didn't have to. That was  
24 already understood.

25 Q. How was that understood?

1 N. ALMONTE

2 A. Anything the office asks you  
3 for, look, at the end of the year, like at  
4 the end of the year if the company owes you  
5 something, no, nothing is owed, because  
6 here it has been paid in the name of Manuel  
7 Almonte, you know, the conversation we had,  
8 my son, me, and Mr. Charlie Klahr, it was  
9 the, you know, a conversation that we said  
10 under the table.

11 Q. Under the table, your son was  
12 present in that conversation?

13 A. I don't remember if he was. I  
14 don't remember.

15 Q. By the way, do you remember  
16 getting an extra check for some additional  
17 overtime after this conversation?

18 MR. VALLETTI: Can we keep the  
19 off-the-record conversations out of  
20 this, Mr. Klahr. That's the second  
21 time in two trips.

22 THE INTERPRETER: What was the  
23 question?

24 (Whereupon, the referred-to  
25 question was read back by the

1 N. ALMONTE

2 reporter.)

3 Q. Or around the time of this  
4 conversation.

5 A. If there was anything, it's  
6 because when we check like every other  
7 employee, sometimes there were errors, you  
8 know, many times with the payment company.

9 So you have to check, you know,  
10 the time sheets with the paystub of the  
11 check, because sometimes the time sheets  
12 said a certain number of hours and the  
13 company paid you a different number of  
14 hours. So I would complain to the manager,  
15 we would check it together, and -- if that  
16 was the case.

17 Q. And they paid you for whatever  
18 hours you were owed then, if that was the  
19 case, you checked it with Mr. Klahr and  
20 they would pay you for whatever hours that  
21 were owed?

22 A. Whatever the timesheet said, if  
23 it wasn't like matching with a check, then  
24 yes, they would pay us whatever was  
25 missing.

1 N. ALMONTE

2 Q. So your testimony is you never  
3 got paid for overtime in 2012 and 2013; is  
4 that your testimony?

5 A. Yes, correct.

6 Q. You never got paid overtime?

7 A. I said previously, in one  
8 occasion Mr. Charlie told me we have to  
9 write in the timesheet, we have to write at  
10 least 53 hours. It was like 45 hours, plus  
11 like three hours like on Saturday.

12 Q. So --

13 A. That's what did it say.

14 Q. Did you work less than the  
15 53 hours that week?

16 A. No, more than the 53.

17 Q. And there were occasions you  
18 got paid for more, right, more than  
19 53 hours a week? Yes or no?

20 A. I don't think so.

21 Q. Are you sure?

22 MR. VALLETTI: Objection.

23 Asked and answered.

24 Q. What about 2011? Did you get  
25 paid any overtime in 2011?

1 N. ALMONTE

2 A. No, the excuse always was that  
3 the apartment was for the overtime.

4 Q. So let's go back exactly week  
5 by week in 2011, and can you tell us, let's  
6 start from the day you started, and let's  
7 go each week, exactly how many hours you  
8 worked that week, starting in 2011, going  
9 forward for the whole year?

10 MR. VALLETTI: Stu, I'm going  
11 to object to the entire line of  
12 questioning as harassing. If you  
13 want to call the judge, let's do it.  
14 That's a harassing question. Call  
15 the judge. That's a harassing  
16 question. You're going to going back  
17 week by week since 2011?

18 MR. WEINBERGER: Yes, he said  
19 he worked then. How are we supposed  
20 to know the damages if he doesn't --

21 MR. VALLETTI: Ask him what he  
22 worked. Listen, first of all you had  
23 him get directives from Charlie  
24 Klahr. This stuff is sanctioned.  
25 He's getting the orders from the

1 N. ALMONTE

2 boss. Ask him to get orders from the  
3 boss.

4 MR. WEINBERGER: No, I'm not  
5 getting orders from his boss. I want  
6 to know how many hours he worked so  
7 he can calculate the damages.

8 Q. So tell me how many hours in  
9 2011 you worked, breaking it down to prove  
10 that you worked those hours.

11 MR. VALLETTI: And I'll object,  
12 again, because as you know as well as  
13 I do, it's the employer's job to keep  
14 accurate records under the law, Stu,  
15 so he can testify to his knowledge of  
16 the hours he worked, but in terms of  
17 the accuracy, that's going to be in  
18 the province of your clients.

19 MR. WEINBERGER: Unfortunately,  
20 that's a great argument, I'll say on  
21 the record, except for your guy was  
22 responsible for filling out the time  
23 record and keeping --

24 MR. VALLETTI: Whose  
25 responsibility is it ultimately --

1 N. ALMONTE

2 MR. WEINBERGER: His  
3 responsibility. He was the employee  
4 who was in charge of it. We're going  
5 to talk to the judge tomorrow, so  
6 we're going to have to leave this.

7 MR. VALLETTI: You can ask him  
8 to the extent he has knowledge about  
9 the hours he worked, the week, but in  
10 terms of him going week by week, that  
11 is harassing and way overbearing and  
12 really, really out of line.

13 MR. WEINBERGER: No, it isn't,  
14 because there is no way to figure out  
15 the hours he worked and to prove the  
16 amount of hours. If he said the  
17 timesheet is wrong, we're going to go  
18 through each timesheet and he'll tell  
19 us what hours are wrong.

20 MR. VALLETTI: Start with the  
21 time sheets. We'll go week by week.

22 MR. WEINBERGER: I started in  
23 2011.

24 MR. VALLETTI: We don't have  
25 the records from before that. Do

1 N. ALMONTE

2 you? Maybe the employer has the rest  
3 of them, which is also their job.

4 MR. WEINBERGER: Let's start  
5 with 2012. Let's start week one,  
6 we'll go to 14.

7 MR. VALLETTI: Do you have any  
8 further questions on Exhibit K, Stu?

9 MR. WEINBERGER: No.

10 Q. How many hours did you work  
11 that week?

12 A. It's right there, adding it all  
13 up, 41.30.

14 Q. That's accurate, you didn't  
15 work any more hours than that?

16 A. I did work more, but, you know,  
17 since they were paying basically, they were  
18 giving me the apartment, so I can't really  
19 write down any more hours.

20 Q. So why didn't you write down  
21 40 hours? How did you come to 41.35?

22 A. If you see that the schedule is  
23 8:30 to 5:00, with half-hour for lunch,  
24 which is not paid, but if you see  
25 Wednesday, I worked, I worked until 6:30,



1 N. ALMONTE

2 not 5:00, so that's an extra hour and a  
3 half.

4 Q. And you wrote it down?

5 A. I wrote it, correct.

6 Q. Let's do the following week.  
7 So do you know exactly how many hours you  
8 worked that day?

9 A. The one that says in the  
10 timesheet, besides the hours I worked at  
11 night.

12 Q. All right. The hours you  
13 worked at --

14 A. And Saturday and Sunday.

15 Q. So you would not write down if  
16 you worked Saturday and Sunday; is that  
17 correct?

18 A. At first, no.

19 Q. Okay. So let's go to the  
20 second one. Does that mean the next week  
21 you wrote down the hours on Saturday and  
22 Sunday? That's number, I'm sorry, that's  
23 No. 15.

24 A. Yes, here I have Saturday.

25 Q. So then did you write down the

1 N. ALMONTE

2 hours of Saturday in 2012?

3 A. Yes, I remember that day  
4 perfectly, and I know what job I did that  
5 day.

6 Q. You remember the job you did in  
7 2012 on that day?

8 A. Yes, yes.

9 Q. On the Saturday?

10 A. Yes, I don't forget.

11 Q. Okay. What was it?

12 A. When my daughter came out, came  
13 out of the apartment, the yard was full of  
14 water. She called me, she said, "Dad, the  
15 yard is full of water." So I came, I  
16 looked, I remember I said, "Manuel, get up,  
17 because we have problems."

18 So we went, we stepped on the  
19 water, we went to the basement to get water  
20 to unclog the sewers, and I remember, I  
21 told them Manuel, prepare the machine,  
22 because I'm going to take all the cables to  
23 take them through the top, because I don't  
24 want them to touch the water.

25 So that day, I remember it was

1 N. ALMONTE

2 9:00 A.M., we started with, you know, a  
3 snake. We stopped to eat something as  
4 usual at 12:30, 1:00. And then we  
5 continued snaking it until we were able for  
6 the water, the water to start leaving  
7 again. So I can't forget -- I can't forget  
8 that. There's a few things I don't forget  
9 about a job.

10 Q. What about in 2011, any  
11 extraordinary events in 2011 that you  
12 remember about work on the --

13 A. That would happen all the time,  
14 but very rarely it occurred on a weekend.  
15 On the weekday it would happen all the  
16 time. Sometimes even Abraham himself would  
17 be with us helping to us unclog a sewer,  
18 and Kalman also, because the basement would  
19 flood with water, black water.

20 Q. Kalman, Tabak, and Abraham, in  
21 what year would they help you unclog?

22 A. Once it was a coincidence. He  
23 arrived at the building, I remember Abraham  
24 himself asked me to take one of those long  
25 pipes, the ones that are like bronze, so

1 N. ALMONTE

2 that you -- so that can you find that hole,  
3 because otherwise, you can't find it, so  
4 that can you find the elbow for the snake,  
5 you know, because that way, that would find  
6 that hole on its own.

7 And I am grateful for him for  
8 teaching, teaching me that, because that  
9 was almost right in front of the office  
10 because the office was in the basement.

11 Q. Okay. Thank you. What about  
12 No. 16? How many hours did you work, this  
13 is Bates stamped 16 (handing)?

14 A. It says, "39.50."

15 Q. What about the bottom? What  
16 does that say down there? What hours were  
17 there?

18 A. Where, at the bottom?

19 Q. Oh, I'm sorry. It doesn't have  
20 it. So you missed a day of week here,  
21 correct?

22 A. It could be, yes.

23 Q. So how many hours did you work  
24 this week? Not 39, total, total with night  
25 calls, everything?

1 N. ALMONTE

2 A. That week I could have worked  
3 maybe 60, maybe 70.

4 Q. Do you know?

5 A. I don't know exactly, because  
6 we did not keep a record of the emergency  
7 phone calls. Supposedly all the emergency  
8 calls were paid with, you know, the rent of  
9 the apartment. Later, all that started  
10 changing little by little.

11 Q. When did that change?

12 A. I don't remember. Mr. Charlie  
13 and I once spoke to him about saying, look  
14 the law says that when the super lives in  
15 the building, you have to at least work --  
16 it covers up to like 51, 53, 50-something  
17 hours, something like that. That's why  
18 instead of eight hours of work, the  
19 schedule changed. First, I would start at  
20 8:30 and later I started at 7:00 A.M.

21 Q. And you were paid, you said  
22 there was a change, so the company made  
23 sure to pay you extra so it would include  
24 all of your night calls; isn't that what  
25 happened?

1 N. ALMONTE

2 A. It wasn't pay me extra. It was  
3 that in the paper it would show more hours  
4 in the schedule, but it was the same hours,  
5 not more money.

6 Q. Not more money, but they paid  
7 you hours to make sure that you were  
8 covered for the night calls, correct, and  
9 that was explained to you?

10 A. No.

11 Q. So you never received overtime  
12 besides these -- your overtime each week,  
13 again in 2012 never varied, you never got  
14 extra overtime?

15 MR. VALLETTI: Objection.  
16 You're talking about worked hours or  
17 pay received?

18 MR. WEINBERGER: I'm talking  
19 overtime. You know what overtime  
20 means.

21 MR. VALLETTI: I don't know if  
22 you're talking about the pay or the  
23 hours. The hours he worked  
24 fluctuated. Can you clarify that?

25 MR. WEINBERGER: We can clarify

1 N. ALMONTE

2 it.

3 A. When I got the job, you know,  
4 when I started being the super, I was told  
5 I would get paid \$400 a week.

6 Q. I'm not asking you that. I'm  
7 asking 2012, I'm not asking that. Did you  
8 get overtime for working, overtime beyond  
9 extra hours when you worked beyond, let's  
10 say, whatever hours you were scheduled to  
11 work, did you get paid overtime? Yes or  
12 no?

13 A. My check, my check was always  
14 the same. I was always the same amount  
15 until April 2013.

16 Q. Do you understand when you're  
17 asked a question, just so that you answer  
18 questions, it's supposed to be answered  
19 truthfully, you understand that?

20 MR. VALLETTI: Objection.

21 Again, Stu.

22 A. Ever since we started, I'm  
23 under oath.

24 Q. You're under oath. What about  
25 the next week. Can you look at that, 17,

1 N. ALMONTE

2 Bates stamped 17 (handing).

3 A. What's the question?

4 Q. Do you see that timesheet?

5 What does the bottom say, the bottom entry?

6 A. It has the numbers, but it  
7 looks dark.

8 Q. I didn't ask that. What does  
9 that indicate?

10 A. It says "12:30" right there.

11 Q. Is that at night or during the  
12 day?

13 A. That's the day, I think. I  
14 don't know.

15 Q. You don't know? It could have  
16 been at night?

17 A. Because it doesn't say A.M. or  
18 P.M.

19 Q. Well, did you write down things  
20 at night when you worked at night?

21 A. No, that was the day.

22 Q. So why did you write on top the  
23 same hours?

24 A. That's the normal schedule.  
25 Okay? If you look at another timesheet



1 N. ALMONTE

2 where you can actually see the dark area,  
3 it says what time you left and what time  
4 you came back.

5 So I put down that I left the  
6 building at 12:30 and I came back at 4:15.  
7 Here on top you can see the regular  
8 schedule, because even though I left the  
9 building, Manuel Almonte would stay right  
10 in front of the building.

11 Q. Did you ever write down at the  
12 bottom that you left the building to go  
13 work in another building?

14 A. Yes.

15 Q. So, do you know how many hours  
16 you worked that week exactly?

17 A. Supposedly the same 40 hours,  
18 plus the date I stayed up to 6:30, so the  
19 same, 41 and a half hours.

20 Q. So you stayed up to 6:30 and  
21 you got paid for that, as far as you know,  
22 correct?

23 A. Yes.

24 Q. Let's quickly go through this.  
25 This week, the next week, 19, we'll try and

1 N. ALMONTE

2 go through this quickly.

3 A. What's the question?

4 Q. How many hours did you work  
5 that week?

6 A. Discounting because if you see  
7 here, Monday, I was sick. I felt sick in  
8 the morning. So I went back to work at  
9 3:30 P.M. and I worked until 5:30. I took  
10 some medicine for the flu or something like  
11 that. I don't remember.

12 Q. So how many hours did you work  
13 that week, total that day, that week, I'm  
14 sorry?

15 A. You would have to add  
16 whatever's there.

17 Q. So you didn't work any more  
18 including night calls or, that's the total  
19 hours that you worked that week?

20 A. The same question every week,  
21 you worked up to the same time, it was  
22 like, you know, a little bit, one hour or  
23 two extra hours it would be written down in  
24 the timesheet. If I kept going, you know,  
25 not five, you know, until 6:00, 6:30 I

1 N. ALMONTE

2 would write that down in the timesheet, but  
3 when I stopped working at 5:30, and then  
4 there was a job like at 7:00 P.M., that  
5 would not be written down on any sheet.

6 Every day you worked in the  
7 nighttime, it was like a miracle whenever  
8 there wasn't some kind of emergency. I  
9 told you before I was like a firefighter, I  
10 slept with the boots.

11 Q. So you would stop writing it  
12 down at 6:00 at night, right, 5:30, 6:00?

13 A. It would depend when I stop,  
14 like if it was straight without stopping, I  
15 would put the time I finished.

16 Q. Do you have any --

17 A. And that was in the middle of  
18 2012 that that started.

19 Q. What started?

20 A. That I would be asked to write  
21 down if I worked straight, like an extra  
22 hour or extra hour and a half, actually you  
23 have to ask permission to work overtime.

24 Q. Okay. So it did change. In  
25 2012, you were told at some point that you

1 N. ALMONTE

2 had to write down hours if you worked after  
3 the hours?

4 A. If I worked like an hour or  
5 half-hour after the finishing time, that  
6 didn't matter, but that did not mean that I  
7 would have to write down the hours that  
8 they called me in an emergency.

9 Q. You're saying if you work more  
10 than a half-hour, an hour, you would write  
11 down the time at night?

12 A. If it kept going straight, like  
13 if it was instead of 5:00, let's say I  
14 worked an extra half-hour, it would be  
15 5:30, then I would write it, but the  
16 example is right there.

17 Q. You said it, just said it  
18 changed in 2012 --

19 A. Before 2012, it wasn't like  
20 that.

21 Q. Okay. In 2012, were you told  
22 you had to write down all the hours you  
23 worked?

24 A. Minus the emergency hours,  
25 because that would be paid with the

1 N. ALMONTE

2 apartment.

3 Q. Okay. So your testimony is you  
4 worked 30 emergency hours a week; is that  
5 your testimony, every week?

6 A. One week could be even over  
7 40 hours and then one week could be over  
8 20, so it would depend on the emergencies.

9 Q. So how would we know what hours  
10 you worked every single week?

11 A. By, you have to suppose, there  
12 is no written record.

13 Q. Well, there is no written  
14 record or did you ever tell anybody all the  
15 hours that you worked?

16 A. I didn't have to tell anybody,  
17 the company knew, Mr. Charlie Klahr was the  
18 one who was sending me the texts. Even the  
19 emergencies for other buildings I would  
20 leave 2:00, 3:00 A.M. for the emergencies  
21 in the other building.

22 Q. This is interesting. Mr. Klahr  
23 is a religious Jew, correct?

24 A. That's his personal life.

25 Q. But he wouldn't call you on

1 N. ALMONTE

2 Friday night, would he?

3 A. Actually, there is a  
4 coincidence, that he did call me, you know,  
5 even Saturdays, after like 5:00, 6:00 P.M.  
6 He could even tell you that himself, he  
7 would call me, he would call me like, you  
8 know, to speak to me, so we did have  
9 conversations over the phone.

10 Q. Again, did you ever write down  
11 the time you worked on Saturdays and  
12 Sundays, just in 2012?

13 A. I was asked to write down that  
14 I worked three hours, an hour and a half in  
15 the morning, and an hour and a half in the  
16 evening.

17 Q. So that's all you wrote down, a  
18 total of three hours for that day?

19 A. Yes, because there was no  
20 porter. On Sunday there was no porter. I  
21 had to do the cleanup in the morning and  
22 afternoon.

23 Q. So what was your scheduled time  
24 that you worked?

25 A. I would start at 8:30 and then

1 N. ALMONTE

2 I would finish at 5:00. And then that  
3 changed, that we started at 7:30 in the  
4 morning and I would finish at 5:30.

5 And that also you had to  
6 include those three hours because the  
7 porter would not work on Sundays and, you  
8 know, it had to be cleaned up seven days a  
9 week.

10 Q. Who assigned you to work on  
11 Sundays?

12 A. Mr. Charlie Klahr.

13 Q. Did you write down the time you  
14 worked on Sundays?

15 A. In some time sheets if you  
16 check it says sometimes Sundays, let's say  
17 from 8:00 to 9:30 and then in the  
18 afternoon, another hour and a half.

19 Q. Was there any weekend coverage  
20 at the building at 437 Morris Park Avenue?

21 A. What do you mean? I don't  
22 understand the question.

23 Q. Did any porters work on the  
24 weekend?

25 A. Saturday, the porter would work

1 N. ALMONTE

2 hour and a half morning, hour and a half in  
3 the afternoon.

4 Q. Isn't it true that Sunday, the  
5 porter worked?

6 A. No.

7 Q. Okay. So there was no porter  
8 assigned at 437 Morris Park on Sundays; is  
9 that correct?

10 A. I think I'm confused. It was  
11 Saturday that there was no porter. Sundays  
12 the porter did work. It was Saturdays that  
13 there was no porter. I'm sorry about that.

14 Q. Now, let's go to 2013, did you  
15 ever meet with Mr. Klahr? Did you ever  
16 meet with Mr. Klahr -- when you were  
17 working as Nestor Almonte, did Mr. Klahr  
18 ever ask you again what overtime hours you  
19 worked?

20 A. No, not that I remember.

21 MR. WEINBERGER: Let's mark  
22 this as Exhibit L.

23 (Whereupon, document was marked  
24 as Defendants' Exhibit L for  
25 identification as of this date by the



1 N. ALMONTE

2 reporter.)

3 Q. By the way, when did Manuel  
4 Almonte stop working in the building?

5 A. When I started working as a  
6 super, then he became a handyman, and he  
7 worked like a month or two as a handyman.

8 Q. And when was that?

9 A. That was like April, May 2013.

10 Q. That's when he stopped working  
11 in the building?

12 A. April, May, or June was that he  
13 stopped.

14 (Whereupon, an off-the-record  
15 discussion was held.)

16 THE INTERPRETER: Had said  
17 before, to be exact, he stopped  
18 working in June 2013.

19 Q. I'd like to show you what was  
20 marked as Exhibit L (handing).

21 A. What's the question?

22 Q. Have you ever seen Exhibit L?

23 A. Yes.

24 Q. And Exhibit L is signed by you  
25 in the name of Manuel Almonte, correct?

1 N. ALMONTE

2 A. Yes.

3 Q. And at that time, you were  
4 working as Nestor Almonte; is that correct?

5 A. Well, this refers to these  
6 thousand dollars that is saying is the  
7 payment and that was a loan that was given  
8 to me by the company.

9 Q. The loan was to you when?

10 A. I don't have the date, but I  
11 never received a thousand dollars as a  
12 bonus.

13 Q. You said it was a loan?

14 A. Not a bonus, though. Like if  
15 you check the reason that it says.

16 Q. By the way, did you get two  
17 loans from the company?

18 A. Yes.

19 Q. And you signed for those loans;  
20 is that correct?

21 A. Yes.

22 Q. And do you claim you were  
23 damaged in any way by receiving those  
24 loans?

25 MR. VALLETTI: Just note my

1 N. ALMONTE

2 objection to that. I don't know you  
3 mean by "damaged." He can answer if  
4 he understand.

5 A. I don't understand that, what  
6 do you mean claiming? What --

7 Q. Are you aware, if you know,  
8 that you're suing, you have a cause of  
9 action, a lawsuit involving these two  
10 loans, are you aware of that?

11 A. This is included in the  
12 lawsuit, but it's not like I'm claiming  
13 this loan. Only my lawyer knows how this  
14 works.

15 Q. With respect to this, it says  
16 here, "There are no money owed for any  
17 reason, not towards regular pay, overtime,  
18 or reimbursements"; is that correct?

19 A. Is it the same document you  
20 showed me from another year, you know,  
21 2011, 2012, every year, this was done.  
22 Documents that you have to sign to keep the  
23 job, like if I refused to sign something  
24 like this, then my job ended right there.

25 Q. Because you were an illegal

1 N. ALMONTE

2 alien at that point, when you signed that;  
3 is that correct?

4 A. No, I wasn't an illegal alien.

5 Q. So who told you your job was  
6 going to end if you signed that, if you  
7 didn't sign that?

8 A. No, it wasn't -- I wasn't told  
9 that. They didn't have to, I understood  
10 that.

11 Q. Why did you understand that?

12 A. It's like a sixth sense.

13 Q. So again, were you paid  
14 overtime in 2013?

15 MR. VALLETTI: Objection, asked  
16 and answered.

17 MR. WEINBERGER: No, I didn't.

18 MR. VALLETTI: You said  
19 "again." That's usually a hint --

20 MR. WEINBERGER: I'll withdraw  
21 the question.

22 Q. Were you paid overtime in 2013?

23 A. Not the emergency calls. It  
24 was always the same boss since I started  
25 until I finished.

1 N. ALMONTE

2 Q. You got the same amount, your  
3 check was the same amount every week in  
4 2013; is that correct?

5 A. Before 2013?

6 Q. No, I asked 2013.

7 MR. VALLETTI: You have to  
8 listen to the question, Nestor. He's  
9 asking you something very specific.  
10 Listen to the question.

11 Q. In 2013, were you paid for  
12 overtime, just start there, were you paid  
13 for overtime?

14 A. The hours that I worked  
15 immediately after 5:00, it was an hour or  
16 two hours, an hour and a half, that, yes.

17 Q. And by the way, weren't you  
18 paid in 2013 hours for going to  
19 Sherman Avenue?

20 A. No, they paid me a salary of  
21 \$300 a week.

22 Q. So let's just clear up how this  
23 was. Weren't you responsible for working  
24 at Sherman Avenue in 2013 as well, besides  
25 Morris Park?

1 N. ALMONTE

2 MR. VALLETTI: Just note my  
3 objection. You have to put a  
4 specific time frame on this. Because  
5 in April --

6 MR. WEINBERGER: Just asking --

7 MR. VALLETTI: But there's a  
8 shift of how it worked in 2013.

9 MR. WEINBERGER: We'll --

10 MR. VALLETTI: There's a  
11 certain period of time you want to  
12 talk, let's make it a certain period  
13 of time, because that answer could go  
14 two ways. So let him rephrase it.  
15 Let him put a time frame on it and we  
16 can go there.

17 Q. I'm just asking in general in  
18 2013, did you work in 1195 Sherman Avenue?

19 A. Yes.

20 Q. Okay. And were you scheduled  
21 to work 20 hours in Sherman Avenue?

22 A. No, if you look at the time  
23 sheets, you'll see that none of them have  
24 20 hours and either way, I received the  
25 payment of \$300. That was just the

1 N. ALMONTE

2 agreement of \$300 a week.

3 Q. So how much do you claim you  
4 are owed, let's just break this down for  
5 2013, how much starting January 1st, 2013,  
6 through the time your employment ended, how  
7 much do you claim you're owed?

8 MR. VALLETTI: Just note my  
9 objection because this is a legal  
10 conclusion as to how much he's  
11 actually owed and he doesn't have the  
12 ability to answer that question.

13 MR. WEINBERGER: No, no, no, I  
14 didn't say that. I said "claimed."

15 MR. VALLETTI: He doesn't have  
16 the ability to answer that question,  
17 Stu.

18 MR. WEINBERGER: He absolutely  
19 does.

20 MR. VALLETTI: I disagree.

21 Q. How much do you believe you are  
22 owed?

23 A. That's math.

24 Q. Let's introduce this.

25 (Whereupon, document was marked

1 N. ALMONTE

2 as Defendants' Exhibit M for  
3 identification as of this date by the  
4 reporter.)

5 A. I don't know what this is.

6 Q. You've never --

7 MR. VALLETTI: Go ahead. Let  
8 him ask questions.

9 (Whereupon, a brief recess was  
10 held at this time.)

11 Q. Now, you're not claiming you're  
12 owed any money after you started working on  
13 Sherman Avenue from April 23rd, 2013,  
14 correct?

15 A. Can you just repeat the  
16 question, again.

17 Q. You're not claiming any money  
18 for any period after April 23rd, 2013; is  
19 that correct?

20 A. No, I don't think so.

21 Q. Now, did you get a wage  
22 increase after you started working?

23 A. What date?

24 Q. Any wage increase?

25 A. For more work hours.



1 N. ALMONTE

2 Q. I just want to show you -- the  
3 Bates stamp is not clear. It looks like  
4 it's 342, 437, yes.

5 (Whereupon, document was marked  
6 as Defendants' Exhibit N for  
7 identification as of this date by the  
8 reporter.)

9 Q. Let me show you what we marked  
10 (handing).

11 A. Okay.

12 Q. Now, there was a paystub given  
13 with the checks; is that correct?

14 A. Yes.

15 Q. So just looking at one -- where  
16 it says would you see something that looks  
17 like \$40 regular, 15 overtime, and then  
18 6.50.

19 A. Yes, I see it.

20 Q. Now, let's just skip down to to  
21 where it says, "2/1/2013." What does that  
22 say for the amount of overtime paid there?

23 A. I don't see what that date is.

24 MS. ALETOR: The third column.

25 Q. Let me show you. The third one.

1 N. ALMONTE

2 A. What is the question?

3 Q. How much overtime does it show  
4 on this pay record for that week?

5 A. This is 6.65.

6 Q. Now the first 11/17/2013, how  
7 much overtime does it show?

8 A. 6.50.

9 Q. Anything else there above that?

10 A. It says \$15 overtime, extra  
11 hours.

12 Q. Going down where it says  
13 "2/14/13" --

14 A. Which column is that?

15 Q. The overtime, how much overtime  
16 does it say there?

17 A. Where?

18 Q. 2/14/13, just go along.

19 A. So 12 hours for \$12.

20 Q. How many hours?

21 A. It says "12" right there. It  
22 says, "Overtime paid, no."

23 Q. Does it say 6.65?

24 A. Yes.

25 Q. And 40?

1 N. ALMONTE

2 A. 40, yes.

3 Q. So the hours, based on these,  
4 if these records are correct, the amount of  
5 overtime you received varied; is that  
6 correct?

7 A. Yes.

8 Q. And the amount of your paycheck  
9 changed; isn't that true?

10 A. If you look at the pattern,  
11 they all say, "6.65, 6.65, 6.65."

12 Q. No, they don't, do they? No,  
13 they don't. They say \$15, 6.50, right?  
14 You're reading the same thing?

15 A. Basically, what's your  
16 question?

17 Q. Did your paycheck differ, yes  
18 or no, each week?

19 A. It would vary, yes, yes it  
20 would vary.

21 Q. And you did get paid for  
22 overtime; isn't that correct?

23 A. Some of the overtime.

24 Q. Could you tell us what week --  
25 let's just take this week where you got

1 N. ALMONTE

2 this period. Can you tell us how much  
3 overtime you're owed for that period  
4 (pointing).

5 A. For all of it?

6 Q. No, I just asked for that one  
7 period, just taking a random --

8 A. One week, you mean?

9 Q. Yes, for one week.

10 A. It's that here -- it says 40  
11 plus 6.50, so like 46 hours. That week, I  
12 could have worked 60. I could have worked  
13 55.

14 Q. You could have worked 35,  
15 because you were out sick. I'm not saying  
16 that week, any week?

17 A. Oh, yes, there were weeks I was  
18 sick.

19 Q. So could you tell me, could you  
20 break down, again, let's just say for the  
21 year 2013 for the beginning of the week  
22 January 1st to April 23rd, 2013, how many  
23 hours do you claim you worked, taking into  
24 account that you were sick or whatever  
25 happened, can you tell us?

1 N. ALMONTE

2 A. I don't understand that  
3 question.

4 Q. Can you tell us how many hours  
5 you claim in -- again from January 1st,  
6 we're sticking with 2013 through  
7 April 23rd, '13, how many hours do you  
8 claim you worked where you didn't get paid,  
9 if you know?

10 A. I don't have that in my mind.  
11 You would have to calculate with the time  
12 sheets of the job. The payments and the  
13 hours that I worked. The ones I really  
14 worked.

15 Q. Well, how would we know that?  
16 How would we be able to calculate that? Is  
17 it all on the time sheets? How would I  
18 know what hours you worked from  
19 January 1st, 2013 through April 23rd, 2013?  
20 And if you can't tell me, tell me who would  
21 know.

22 MR. VALLETTI: Just note my  
23 objection to the form of the  
24 question.

25 A. I would say if the manager

1 N. ALMONTE

2 checks the hours and the calls that were  
3 made, because he's the one that received  
4 the hotline phone calls, you could  
5 calculate that.

6 Q. So if he says that you got paid  
7 properly, then you would have to agree with  
8 that, correct, the correct number of hours?

9 MR. VALLETTI: Note my  
10 objection to that characterization.

11 A. Do I have to answer that?

12 Q. Yes, if you can.

13 MR. VALLETTI: If you know.

14 A. Then he's lying. If he says he  
15 paid me in full, he's lying.

16 Q. Okay. So tell us, what again,  
17 how can we know, I don't want to use the  
18 word "again," how can somebody tell us or  
19 calculate, or maybe you can instruct us,  
20 how do we calculate how much you claim is  
21 owed from January 1st, 2013 through  
22 April 23rd, 2013?

23 MR. VALLETTI: Just note my  
24 objection in terms of it being a  
25 calculation. He's not here to do

1 N. ALMONTE

2 that, he's here to testify to facts.

3 MR. WEINBERGER: Actually, on  
4 the record can you ask.

5 MR. VALLETTI: You can ask if  
6 you want. He doesn't have a  
7 calculator in front of him.

8 MR. WEINBERGER: No, no, no,  
9 I'm asking him to tell me how you get  
10 to this number or how we can get to  
11 this number and then instruct me how  
12 to do it.

13 MR. VALLETTI: Is there a  
14 question pending there?

15 MR. WEINBERGER: Yes.

16 (Whereupon, the referred-to  
17 question was read back by the  
18 reporter.)

19 A. I personally, the way I  
20 calculate, is because I would get a  
21 payment, half of that payment was for  
22 Manuel Almonte and half for me. Whatever  
23 half was given to him for my job, I guess  
24 that would be the way to calculate, there  
25 is no other way that I can actually do the

1 N. ALMONTE

2 calculation.

3 Q. Okay. So whatever the time  
4 shows on the time sheets for that period  
5 January 1st, 2013, would be the amount of  
6 hours you worked or that you're claiming  
7 you worked; is that correct?

8 MR. VALLETTI: Just note my  
9 objection that before he testified  
10 that the hours reflected in time  
11 sheets weren't accurate for the whole  
12 time.

13 MR. WEINBERGER: Well, I'm  
14 asking him.

15 MR. VALLETTI: Well, I'm just  
16 noting my objection.

17 A. The time sheets reflect the  
18 regular work hours.

19 Q. So how -- go ahead.

20 A. I asked -- answered this  
21 question various times. The night hours,  
22 the emergency calls are not anywhere there  
23 in the time sheets. I don't know how to  
24 calculate that. I leave that to the law.

25 Q. Is there any way for us to know



1 N. ALMONTE

2 what hours you worked that you weren't paid  
3 for from January 1st, 2013 through April  
4 23rd, 2013?

5 MR. VALLETTI: I'm going to  
6 object as asked and answered. He has  
7 already answered that question.

8 MR. WEINBERGER: No, he hasn't.

9 MR. VALLETTI: It's the last  
10 question you asked and he told you an  
11 answer.

12 MR. WEINBERGER: He hasn't.  
13 That's not an objection.

14 MR. VALLETTI: Just note my  
15 objection. And if you can answer,  
16 you can answer.

17 A. I can't answer that. How am I  
18 going to calculate that?

19 Q. Well, tell us, how can anybody  
20 calculate this, then?

21 A. Well, you can calculate because  
22 you have a radio 24 hours a day. That, of  
23 course, doesn't mean that you're working  
24 all 24 hours every day. Like I said, you  
25 know, like, when you're in an office you

1 N. ALMONTE

2 take a break few minutes here, few minutes  
3 there, but you're there. It doesn't mean  
4 you're working all the time.

5 But, you know, the  
6 firefighters, you know, are -- they could  
7 be sitting, this waiting for an emergency  
8 but they're working because they're there.

9 Q. It's called "on-call," right?  
10 Do you know that phrase?

11 Let's withdraw the question.  
12 Just to show this quickly, because we want  
13 to move on 63 to 78.

14 (Whereupon, superintendent's  
15 time sheets were marked as  
16 Defendants' Exhibit O for  
17 identification as of this date by the  
18 reporter.)

19 Q. Let me ask you a question.  
20 While you're looking through that, where it  
21 says after Friday, it's Saturday and  
22 Sunday, these copies are blocked out. But  
23 actually you can read Saturday and Sunday,  
24 correct?

25 A. Yes, yes.

1 N. ALMONTE

2 Q. And in fact on the first one  
3 just to be clear, on 63, you in fact worked  
4 on this Saturday; is that correct?

5 A. Yes, it's right there.

6 Q. Are these the time sheets for  
7 that period, January 1st, 2013, through  
8 April 23rd, 2013?

9 A. What do you mean, if these are  
10 the time sheets?

11 Q. Are you familiar, are these the  
12 superintendent time sheets?

13 A. Yes.

14 Q. Okay. Just looking at the last  
15 one, by the way, it said you worked late on  
16 the sewer with Pedro Medina?

17 A. Yes.

18 Q. And when you worked late at  
19 night in apartments, you actually wrote  
20 that down; is that correct?

21 A. There were occasions, yes.

22 Q. So there were occasions you  
23 wrote down for the night calls, correct?

24 A. At some point I started writing  
25 them down, because I wasn't -- I didn't

1 N. ALMONTE

2 feel like I was satisfied, so I started  
3 writing it.

4 Q. So what was the point you  
5 started writing down the night calls?

6 A. I don't remember.

7 Q. Was --

8 A. Exactly.

9 Q. Was it 2012, 2011, just  
10 roughly?

11 A. I would say like towards the  
12 end of 2013.

13 Q. Are you sure it wasn't 2012?

14 A. I'm not sure. That's why I  
15 said I'm not sure.

16 Q. Okay. Just a few more  
17 questions. 2012, the time sheets.

18 (Whereupon, an off-the-record  
19 discussion was held.)

20 MR. WEINBERGER: All right.  
21 Let's pull it quickly, 2012 and 2011.

22 MR. VALLETTI: Real quick, off  
23 the record.

24 (Whereupon, an off-the-record  
25 discussion was held.)

1 N. ALMONTE

2 MR. WEINBERGER: Let's just put  
3 the time sheets in for 2011 which is  
4 000 through 13.

5 (Whereupon, time sheets were  
6 marked as Defendants' Exhibit P for  
7 identification as of this date by the  
8 reporter.)

9 Q. So let's just look at  
10 Exhibit P. Do you know what Exhibit P is  
11 (handing)?

12 A. Time sheets.

13 Q. Can you tell us based on these  
14 time sheets how many hours you worked in a  
15 week?

16 MR. VALLETTI: Just do me a  
17 favor, I don't want to get these  
18 things confused.

19 MR. WEINBERGER: Did we take  
20 the exhibits back?

21 MS. ALETOR: We're going back  
22 and forth.

23 MR. VALLETTI: Hold on, this is  
24 I, there's I. Sorry about that.

25 THE WITNESS: What was the

1 N. ALMONTE

2 question?

3 (Whereupon, the referred-to  
4 question was read back by the  
5 reporter.)

6 A. Some have 40, most of them is  
7 the original schedule. That's what I would  
8 get paid, that amount of money. You could  
9 see that it started 8:30 and it would end  
10 at 4:30. And even the half-hour of lunch  
11 was included in the eight hours. That's  
12 how it started. Then it changed and  
13 changed, but with the same payment.

14 Q. So could you tell us based on  
15 these time sheets, again -- not again, can  
16 you tell us how many hours you claim you  
17 worked in 2011 that you were not paid for?

18 A. Well, in my calculations, I  
19 would approximately work 70 hours a week,  
20 you know, some weeks could be 60, some  
21 weeks could be 80, that's what I would  
22 calculate, approximately 70 hours a week.

23 Q. Could it be 30 or 40 if you  
24 were out sick?

25 A. It could be, of course.

1 N. ALMONTE

2 Q. So how would we know in 2011  
3 what you worked in a given week?

4 MR. VALLETTI: Note my  
5 objection. He can answer. He just  
6 gave you an average of hours a week.  
7 He can answer, if he can. Go ahead.

8 A. That's an average. In every  
9 timesheet if I was sick, it would be down  
10 there, you know, "sick," or whatever.

11 Q. So in those weeks where you  
12 were sick or whatever, you worked 30 hours  
13 40 hours?

14 A. It could be, but I'm not sure.

15 Q. Are you sure of any hours that  
16 you worked in any given week, are you sure  
17 in 2011 of the hours you worked?

18 A. Never one week was the same as  
19 another. It was never one day exactly the  
20 same as another day, never.

21 Q. And just to be clear, there's  
22 no record of hours that you worked?

23 A. Those calculations I leave to  
24 my lawyer and the law.

25 Q. Okay. What about 2012? Can

1 N. ALMONTE

2 you tell us what your claim is for the  
3 number of hours that you worked in 2012 and  
4 if it changed, because you said there may  
5 have been a change of how you were paid,  
6 maybe, can you tell us what the change was?

7 MR. VALLETTI: Just note my  
8 objection to form. Can you just be  
9 clear. I don't want him to have to  
10 go through the same spiel again. Ask  
11 him, if you can, a pointed  
12 question --

13 Q. Do you understand the question?  
14 If not, we'll rephrase.

15 A. No, I don't.

16 Q. Okay. How many hours do you  
17 claim you're owed for overtime or for pay  
18 in the year 2012?

19 A. Those calculations I leave to  
20 my lawyer. That's why I have a lawyer.  
21 He's the one that knows the law. I don't  
22 know the law.

23 Q. So your lawyer would know the  
24 hours that you worked?

25 MR. VALLETTI: Well, just note



1 N. ALMONTE

2 my objection. You asked him for how  
3 much he is claiming and he's right to  
4 say it's his lawyer's calculation.

5 If you want to ask him how many  
6 hours he worked, Stu, that might be a  
7 better question.

8 MR. WEINBERGER: I think that  
9 is the question.

10 Q. How many hours did you work in  
11 2012 where you didn't get paid?

12 A. 70 hours a week.

13 Q. Each week?

14 A. I just said some weeks it could  
15 have been 80 and some weeks could have been  
16 90, some weeks could have been 50.

17 Q. About 30?

18 A. Impossible. Because there is  
19 no timesheet that would say that, that I  
20 worked 30 hours. With the exception of the  
21 sick day, maybe those hours I didn't work.

22 Q. Okay. So there could be weeks  
23 that because you were out sick or you went  
24 someplace else, vacation or something?

25 A. One whole week, never.

1 N. ALMONTE

2 Q. Let's go back to some other  
3 stuff.

4 MR. WEINBERGER: 375.

5 (Whereupon, document was marked  
6 as Defendants' Exhibit Q for  
7 identification as of this date by the  
8 reporter.)

9 Q. Have you seen this document  
10 before (handing)?

11 A. Yes, I remember this.

12 Q. And what is this?

13 A. This is a list that Mr. Charlie  
14 Klahr gave me. That this is what we had to  
15 ask each employee all the tools that they  
16 needed to have, but no one ever really had  
17 them.

18 Q. Did you sign that list?

19 A. I signed as if I had those  
20 tools personally, I did have that.

21 Q. Thank you.

22 Did you ever work under the  
23 name of Ernesto Lopez?

24 A. I would be called that in the  
25 company many times. That's my mother's

1 N. ALMONTE

2 last name. I've said that before. I'm  
3 Nestor Almonte Lopez.

4 Q. I'd like to show you, it's 385,  
5 Bates stamped 385 to 387 (handing).

6 (Whereupon, document was marked  
7 as Defendants' Exhibit R for  
8 identification as of this date by the  
9 reporter.)

10 Q. Have you ever seen these  
11 documents before? And while you're doing  
12 this, by the way, doing two things at  
13 once --

14 MR. VALLETTI: No, no, we're  
15 not going to have him review  
16 documents and answer the questions at  
17 the same time.

18 MR. WEINBERGER: Fine, go  
19 ahead.

20 A. What was the question?

21 Q. Have you ever seen those  
22 documents before?

23 A. Yes.

24 Q. And who were they given to?

25 A. What do you mean? Who were

1 N. ALMONTE

2 they given to?

3 Q. Who was being written up, given  
4 those warning letters?

5 A. Manuel Almonte.

6 Q. So Manuel Almonte was the one  
7 who was guilty of these things, not you?

8 A. No, in this case, it was me.

9 Q. So the company wrote to you,  
10 gave you a warning letter in the name of  
11 Manuel Almonte; is that correct?

12 A. Yes.

13 Q. Did the company ever refer to  
14 you as "Manuel Almonte"?

15 A. The "company" is who?

16 Q. Charlie.

17 A. No.

18 Q. Charlie Klahr?

19 A. No.

20 Q. So Charlie wrote that letter,  
21 who is Charlie writing that letter to?

22 A. To me personally.

23 Q. And what name is on that  
24 letter?

25 A. Manuel Almonte.

1 N. ALMONTE

2 Q. So did Charlie refer you to as  
3 Manuel Almonte? Yes or no?

4 A. He never referred to me as  
5 Manuel Almonte. He called me "Lopez."

6 Q. Is anyplace in this, any letter  
7 that says Lopez?

8 A. This type?

9 Q. Yes.

10 A. It says "Manuel Almonte." Two  
11 of them are signed with the name  
12 Manuel Almonte and one of them has my  
13 personal signature as Nestor Almonte.

14 Q. And you signed the other ones  
15 as Manuel?

16 A. Of course. Manuel was the  
17 super's name.

18 Q. So is it, the warning, given to  
19 you or to Manuel Almonte, your son, just  
20 tell me yes or no, those three warnings --  
21 did they go --

22 A. For the third time, these  
23 warnings were given to me, personally.

24 (Whereupon, document was marked  
25 as Defendants' Exhibit S for

1 N. ALMONTE

2 identification as of this date by the  
3 reporter.)

4 MS. ALETOR: What page is that?

5 MR. WEINBERGER: 397.

6 A. What's the question?

7 Q. Have you seen this document  
8 before?

9 A. Yes.

10 Q. Is that your signature on  
11 there?

12 A. It was signed by me in the  
13 Manuel's name.

14 Q. Okay. So the company referred  
15 to you again in this document as  
16 "Manuel Almonte"; is that correct?

17 A. The whole time in paper.

18 Q. In paper, so every document in  
19 paper referred to you as Manuel Almonte,  
20 correct, from the company, until you  
21 changed to Nestor?

22 MR. VALLETTI: Just note my  
23 objection as to, "changed to Nestor."

24 MR. WEINBERGER: All right.

25 Withdraw the question.

1 N. ALMONTE

2 Q. Every document referred to you  
3 from the company that you received from the  
4 company referred to you as Manuel Almonte;  
5 is that correct?

6 A. Until April of 2013.

7 Q. And then it changed to what?

8 A. No, I didn't change, what  
9 happened was that I was authorized to work  
10 in the United States legally, so I handed  
11 him my Social Security card and my  
12 residency card, and then I put myself down  
13 as a super and Manuel Almonte, the  
14 handyman.

15 Q. Where did you put Manuel  
16 Almonte down as a handyman? Where did you  
17 put that down?

18 A. No, because of the time  
19 sheets -- Manuel Almonte started writing  
20 the time sheets down as Manuel Almonte and  
21 I was doing the time sheets as the super.

22 Q. Well, what time sheets did  
23 Manuel Almonte write down?

24 A. I don't understand.

25 Q. Well, you started writing down

1 N. ALMONTE

2 time sheets as Manuel Almonte, right, as  
3 the handyman, when was that?

4 A. Yes.

5 Q. When was that?

6 A. That was April, May 2013.

7 April, April 2013.

8 Q. How long did that going on for?

9 A. Until June.

10 Q. Okay. But you're not claiming  
11 any money from that period, correct?

12 A. After April 2013, I have  
13 nothing that I'm claiming.

14 Q. Okay. That's fine. The money,  
15 it says -- well, maybe it doesn't say. How  
16 was the money divided in 2011 through 2013?  
17 How is it divided between you and Manuel  
18 each week?

19 A. Half and half.

20 Q. Well, how much did your wife  
21 get of that money?

22 A. Whatever she needed. She's my  
23 wife. I support the family.

24 Q. Did you testify that you divide  
25 up the money among -- in this deposition



1 N. ALMONTE

2 among your wife, your daughter, yourself  
3 and your son, because your wife, daughter  
4 and son worked in the building?

5 A. No, that's like a comment, a  
6 way of saying it, because I would support  
7 the family. It's not like it was divided  
8 in four equal parts. My wife and my  
9 daughter never work, like, they would help  
10 me, let's say, please mop the elevator, I  
11 can't do it now, they would go and do it,  
12 but they didn't work there.

13 Q. By the way, speaking of people  
14 you took up to the apartment, did you ever  
15 take a kid up, nine, ten, eleven years old  
16 up in the apartments?

17 A. Yes, of course.

18 Q. And who is that?

19 A. Alexander Castro.

20 Q. And who was that?

21 A. My wife was his babysitter.

22 Q. And you took the kid up to the  
23 apartment with you while you were doing  
24 work?

25 A. Yes, every time, all the time I

1 N. ALMONTE  
2 had permission from his mother.  
3 Mr. Charlie knew it. I had permission to  
4 show him how to do the job. One day on one  
5 occasion I said to Alexander, "There's a  
6 toilet to be unclogged." I said,  
7 "Alexander, go do it." He said, "Are you  
8 sure?" I said, "Yes, he knows how to do  
9 it."

10 Q. Who said, "Are you sure"?

11 A. On occasions Mr. Charlie Klahr  
12 asked me, "Are you sure he could do it?"  
13 And I said, "Yes, I'm sure." He was  
14 surprised many times because of that. That  
15 boy was always there after school with me.

16 Q. Who else did you bring up to  
17 the apartment, besides the people who  
18 allegedly worked in the building and this  
19 kid, who else went up with you to the  
20 apartments to do the work?

21 MR. VALLETTI: Just note my  
22 objection. Where it this going, Stu?  
23 The time is up, Stu. If you have,  
24 you have one question pending --

25 MR. WEINBERGER: We're going to

1 N. ALMONTE

2 finish Mr. Almonte in a little while.

3 MR. VALLETTI: Note in a little  
4 while. You have three minutes after  
5 the five-minute break.

6 MR. WEINBERGER: We will tell  
7 the judge tomorrow.

8 MR. VALLETTI: We can tell the  
9 judge everything. You had three  
10 cracks at him. I know we had  
11 circumstances. He's here for another  
12 three hours today. Let's wrap it up.

13 MR. WEINBERGER: He'll be here  
14 until we finish it. If not, we can  
15 call the judge --

16 MR. VALLETTI: You can make an  
17 application. I'm not going to expose  
18 him to more than seven hours --

19 MR. WEINBERGER: Okay. Fine.  
20 I think that's not the case here.  
21 We'll explain to the judge the breaks  
22 because of the snow --

23 MR. VALLETTI: You don't think  
24 he sat for seven total hours?

25 MR. WEINBERGER: I don't know

1 N. ALMONTE

2 if he sat for --

3 MR. VALLETTI: We have the  
4 transcripts.

5 Let me take my turn then.  
6 First, we can look at the other  
7 transcripts for the time we started  
8 and the time we ended for each of  
9 them, add those, and add the three  
10 hours we sat today and see if it adds  
11 to seven.

12 MR. WEINBERGER: We're not  
13 necessarily bound by that.

14 MR. VALLETTI: If you're not  
15 bound by it, then you can ask the  
16 judge if you want more and compel him  
17 for more, but I think you've had more  
18 than enough time.

19 MR. WEINBERGER: Okay. If he  
20 stops testifying, he stops. I'm  
21 continuing on.

22 MR. VALLETTI: After we're done  
23 with this next question, then we're  
24 going to wrap up, and I have my turn  
25 to ask some questions.

1 N. ALMONTE

2 Was there a question pending?

3 (Whereupon, the referred-to  
4 question was read back by the  
5 reporter.)

6 THE WITNESS: My job was sacred  
7 to me, nothing, never.

8 MR. VALLETTI: All right.

9 MR. WEINBERGER: Next --

10 MR. VALLETTI: That's it.

11 MR. WEINBERGER: Okay. He  
12 leaves, I'm going to ask the  
13 questions, then we'll decide tomorrow  
14 with the judge whether it's finished.

15 MR. VALLETTI: What are you  
16 going to ask the question for? The  
17 time we've allotted for is up.

18 Can we note the time, please,  
19 in the transcript if he's going to be  
20 petty like this.

21 (Time noted, 5:05.)

22 Did we have this schedule from  
23 2:00 to 5:00 today, Stu?

24 MR. VALLETTI: What time is it?

25 THE COURT REPORTER: It's 5:05.

1 N. ALMONTE

2 MR. VALLETTI: You got another  
3 question? Let's go.

4 Q. Who were the eyewitnesses to  
5 the hours that you claimed you worked and  
6 didn't get paid?

7 A. Who could be my witness? My  
8 daughter, my wife, they're the only ones  
9 that live with me. Those are night hours,  
10 so -- and who else could know that?

11 Q. Did your son live with you?

12 A. Of course, yes.

13 Q. Did your son work in a  
14 construction job at all near the building?

15 A. No, not that I know of.

16 Q. What does that mean, not --

17 A. No.

18 MR. VALLETTI: It means not  
19 that he knows of. That's what it  
20 means.

21 Q. Do you have any evidence or  
22 documents that you did these night calls?

23 A. In writing there were none,  
24 because like I said, I was told that the --  
25 me living there would cover that, so that

1 N. ALMONTE

2 that, that's what I said. So there is no  
3 evidence in writing. If I didn't live  
4 there, I would have claimed I would have  
5 written it down, but I lived there.

6 Q. Did there come a point where  
7 you said that you did claim those hours?

8 MR. VALLETTI: Just note my  
9 objection. I don't get that. I  
10 don't understand that.

11 A. I don't understand.

12 Q. You testified that sometime,  
13 you don't remember when, that you started  
14 to write down the hours that you worked on  
15 the night calls; is that correct?

16 A. Yes, in the regular time sheets  
17 I would write down some stuff.

18 Q. Did you write down all the  
19 stuff?

20 A. No.

21 Q. So when did you start writing  
22 down some of the stuff?

23 A. Maybe when, maybe when I  
24 personally started being the super, Nestor  
25 Almonte, maybe before, I don't remember. I

1 N. ALMONTE

2 told you that previously the same thing.

3 MR. WEINBERGER: Okay. We may  
4 take a two-minute break and that may  
5 be it, maybe the ballgame is over for  
6 us.

7 (Whereupon, a brief recess was  
8 held at this time.)

9 Q. Did anybody from the company  
10 tell you to divide the money between you  
11 and your son, Manuel, that was received for  
12 pay in 2012 or 2013?

13 A. No.

14 Q. You and Manuel Almonte and for  
15 all the time you claimed that Manuel worked  
16 there, made a decision without the company  
17 to divide the money?

18 A. Yes.

19 MR. WEINBERGER: Okay. I don't  
20 have anymore questions.

21 EXAMINATION BY

22 MR. VALLETTI:

23 Q. Stuart just referenced there  
24 was a time period that you were dividing  
25 the money 2012 and 2013. I'm going to look



1 N. ALMONTE

2 at 2011 first, how was it that your son  
3 came to work for the company?

4 A. That I remember, my son came  
5 into the building and then it was a  
6 coincidence that Charlie Klahr also came as  
7 the manager, you know, not that he came  
8 into the building, but he arrived at that  
9 moment. He said, hi, hello, how are you,  
10 to me. I said the same thing. I  
11 introduced him, I said, "Charlie, this is  
12 my son. Son, this is Charlie."

13 Q. So did you guys have a  
14 conversation at that point, all three of  
15 you?

16 A. Just about introducing them,  
17 that's my son, like that.

18 Q. So at what point did Charlie  
19 Klahr hire your son?

20 A. When he told me that the checks  
21 could not keep coming, they had to be in my  
22 name. They couldn't pay me in cash. I  
23 don't know what problem was in the company.

24 Q. So it was the three of you  
25 speaking at that time, you were part of

1 N. ALMONTE

2 that conversation?

3 A. No, just Mr. Charlie Klahr and  
4 me, at that point.

5 Q. Was there a conversation  
6 between you, Charlie Klahr, and your son?

7 A. No, we just -- just the two of  
8 us spoke, he asked me what about your son,  
9 how old is he. And I told him he's  
10 17 years old, but he can work already at  
11 17, but he's studying so, so what are you  
12 insinuating?

13 Q. Did you say anything to him or  
14 did he say anything back to you after that?

15 A. So then he said, "Why don't we  
16 put your son down as the super so that the  
17 checks come under his name."

18 Q. And from that point on, did  
19 Manuel work for the company?

20 A. No, for like a week later,  
21 that's when I analyzed it, I spoke to my  
22 wife, I spoke to Manuel. So I told Charlie  
23 if he was okay with that, it was okay with  
24 me too, but I told him my son did not have  
25 the experience to be the super, not like

1 N. ALMONTE

2 me. So he said, "Okay. Call your son.  
3 We'll get all the documents. We'll make  
4 the copies and everything, you know, in  
5 paper."

6 Q. So when was the first time your  
7 son started working for the company and by  
8 "working," I mean performing duties?

9 A. It was like starting the end of  
10 February 2011.

11 Q. And was your son working for  
12 what building?

13 A. 437 Morris Park.

14 Q. And when did he become the  
15 super on paper?

16 A. I think it was around then, you  
17 know, the end of February, beginning March,  
18 I'm not sure. You would have to check the  
19 time sheets, whenever the time sheets  
20 started, with Manuel Almonte as the super,  
21 when he started, that's because the company  
22 already had the copy of the, his license,  
23 the copy of his documents, all like that.  
24 He brought the original ones to Charlie in  
25 his office and he, Charlie, made copies.

1 N. ALMONTE

2 Q. If you know, and to your  
3 knowledge, in 2011, how many hours a week  
4 did Manuel work?

5 A. Out of the regular 40 hours,  
6 Manuel out of that, at the beginning the  
7 first few weeks he was there at least 30,  
8 because he was going to school. Later, you  
9 know, it was more work. I needed him more,  
10 so that's when he started to do poorly in  
11 school.

12 Q. Did he stay in school?

13 A. He had to leave school. There  
14 came a time where he had to leave school.

15 Q. Do you know when he left  
16 school?

17 A. It was in 2011, but I don't  
18 know exactly. Maybe a month or two months  
19 after that, like April, May, like towards  
20 the end of the year.

21 Q. Wait, towards the end of the  
22 year or the month?

23 A. At the end of the month -- the  
24 school year, not the end of the year,  
25 because, you know, the school ends, May,

1 N. ALMONTE

2 around then.

3 Q. So at that point, if you know,  
4 how many hours a week was Manuel working?

5 A. I would calculate like around  
6 40 hours, because let's say if he didn't  
7 work, adding it up, then he would have to  
8 work after school, like until 6:30, 7:00  
9 and every call that would come in, he would  
10 have to come in with me.

11 Q. I'm focusing on the period  
12 where he dropped out. After he stopped  
13 going to school, how many hours a week was  
14 he working, if you know?

15 A. 40 hours -- when he left school  
16 he worked 40 hours.

17 Q. You testified earlier,  
18 something about this hotline. Do you  
19 remember when we were talking earlier today  
20 about the hotline, that you were getting  
21 text messages from Charlie Klahr?

22 A. Yes.

23 Q. And you said that you were  
24 receiving text messages from Charlie Klahr,  
25 was it something long those lines?

1 N. ALMONTE

2 A. Yes.

3 Q. Did he communicate in any other  
4 way?

5 A. It was always through text when  
6 it was like, already at night.

7 Q. So Charlie was giving you  
8 directives to work at night?

9 A. Of the calls that he got  
10 through the hotline, he would pass them to  
11 me. Many of the messages that he received  
12 from the hotline, he would just forward  
13 them to me directly, the same message. And  
14 I know that because many times it said who  
15 was the person who complained.

16 Q. I want to ask you a question  
17 about the time sheets, generally. Do the  
18 time sheets generally reflect all of the  
19 hours you worked, including your emergency  
20 calls, your weekend calls and any other  
21 hours?

22 MR. WEINBERGER: Object to the  
23 form, but again --

24 A. No.

25 Q. Was there a punch-in or

1 N. ALMONTE

2 punch-out system available where you could  
3 use your card or use your hand or something  
4 of that nature?

5 A. No.

6 MR. VALLETTI: Off the record.

7 (Whereupon, an off-the-record  
8 discussion was held.)

9 Q. So the only way that they could  
10 tell what hours you were actually working  
11 would be the time sheets?

12 A. So far, that's all there is.

13 Q. So there were no other records  
14 that could show your actual hours worked?

15 A. Just the calls, I mean, where  
16 the calls, this should be a record of those  
17 calls.

18 Q. So let me rephrase the  
19 question. There is no other company  
20 records that could show accurately what  
21 hours you were working and when?

22 A. I don't know any. We're  
23 talking about night hours, right, the  
24 calls?

25 Q. I'm talking about all the hours

1 N. ALMONTE

2 in total, but do please wait until I ask  
3 you a question to answer.

4 MR. VALLETTI: Can I have  
5 Exhibit L.

6 (Whereupon, an off-the-record  
7 discussion was held.)

8 Q. Have you seen this before when  
9 Stu was asking questions about it? I'm  
10 talking about Defendant's Exhibit N.

11 A. Yes.

12 Q. This is for the time period  
13 from January 2013 to March 1st of 2013,  
14 correct?

15 A. It says January 17th. Yes, up  
16 to March 1st.

17 Q. Were both you and your son  
18 working for the company at that time?

19 A. Yes.

20 Q. To your knowledge, did you  
21 receive any paychecks in your name at that  
22 time?

23 A. No.

24 MR. VALLETTI: Can I see  
25 Exhibit P, please. It's a group of



1 N. ALMONTE

2 time sheets from 2011. This is  
3 what's been marked as Defendant's  
4 Exhibit P. The Bates number here is  
5 000000, just for identification  
6 purposes.

7 Q. Can you read for me the date  
8 that is listed on the top right where it  
9 says, "Begin date."

10 A. It says it starts  
11 September 30th, 2011. It ends October 7th,  
12 2011.

13 Q. Nestor, you testified earlier  
14 that you were paid based on time sheets  
15 that you were turned in; is that correct?

16 A. Yes.

17 Q. Do you see any time sheets from  
18 before September of 2011 there?

19 A. No.

20 Q. You testified earlier you  
21 started working for the company in February  
22 of 2011?

23 A. Yes.

24 Q. You started working at 437  
25 Morris Park specifically in or about, was

1 N. ALMONTE

2 it March of 2011 or April, somewhere around  
3 that time?

4 A. Yes.

5 Q. So from April of 2011 to  
6 September of 2011, there were no time  
7 sheets?

8 A. What was the date again?

9 Q. From either February or April  
10 of 2011 to September 2011, there were no  
11 time sheets?

12 A. There was always time sheets.

13 Q. So these are just the first  
14 that the Defendants have, at least to your  
15 knowledge, produced for this?

16 A. I don't know. I haven't seen  
17 any from before that date.

18 Q. Okay. Did you still receive  
19 payment along with Manuel in his name for  
20 the time period of February 2011 to  
21 September of 2011?

22 A. It was like March 2011, March,  
23 April 2011. I don't know the exact date.

24 Q. So that's when you started  
25 receiving payments in Manuel's name for the

1 N. ALMONTE

2 both of you working for the company?

3 A. Yes.

4 MR. VALLETTI: Can I have  
5 Exhibit S, please.

6 MS. ALETOR: (Handing).

7 Q. I'm showing you what's been  
8 marked as Defendant's Exhibit S. Can you  
9 read for me this box over here. It's  
10 entitled, "Employer information," what the  
11 names of the companies are.

12 A. Okay. It says, "437 Morris  
13 Park Avenue, doing business as -- D/B/A  
14 names, F&T Management."

15 Q. That's all I needed from that.  
16 Thank you.

17 MR. VALLETTI: Can I have  
18 Exhibit R, please.

19 MS. ALETOR: Yes, can I get  
20 that back.

21 MR. VALLETTI: (Handing). Can  
22 I have something marked, please.

23 (Whereupon, an off-the-record  
24 discussion was held.)

25 MS. ALETOR: Can we just do A.

1 N. ALMONTE

2 (Whereupon, superintendent and  
3 roving employee time sheets were  
4 marked as Plaintiff's Exhibit A for  
5 identification as of this date by the  
6 reporter.)

7 MR. VALLETTI: These are  
8 superintendent and roving employee  
9 time sheets, but the Bates numbers  
10 are 80 through 92. It's 80 through,  
11 I think, 92.

12 Q. Nestor, these are a series of  
13 the both superintendent time sheets and  
14 roving employee time sheets. Take a look  
15 at these and let me know when you're  
16 finished.

17 A. (Witness complies.)

18 Q. Have you had a chance to review  
19 those, Nestor?

20 A. Yes.

21 Q. I'm going to draw your  
22 attention to the first two pages. The  
23 first one says, "Superintendent timesheet."  
24 The second is a roving employee timesheet.

25 Whose name is on the

1 N. ALMONTE

2 superintendent timesheet?

3 A. "Nestor Almonte."

4 Q. Is that your signature?

5 A. Yes.

6 Q. And whose name is on the roving  
7 employee timesheet?

8 A. "Manuel Almonte."

9 Q. Is that his signature?

10 A. That's Manuel Almonte's  
11 signature.

12 Q. What's the date on both of  
13 those documents, the begin date?

14 A. May 1st, 2013.

15 Q. Why in May were there now two  
16 time sheets, one for your name and one more  
17 Manuel's name?

18 A. Because now I was the  
19 superintendent, you know, my name,  
20 Nestor Almonte and his name, Manuel Almonte  
21 was the handyman was what I used to fill  
22 out before -- he filled out before. Now I  
23 filled it in and he filled out the other  
24 one.

25 Q. So these records don't reflect

1 N. ALMONTE

2 the hours of one person worked?

3 A. No, here's the work of two  
4 people.

5 Q. And why in May, or thereabouts,  
6 the end of April, did you become the  
7 superintendent at 437 Morris Park?

8 A. That was the date when I  
9 received my work authorization card and  
10 also I got my Social Security card.

11 Q. You testified earlier that  
12 Charlie Klahr knew you as Lopez?

13 A. Yes.

14 Q. So Charlie Klahr knew there was  
15 two different people, one named Nestor and  
16 one named Manuel?

17 MR. WEINBERGER: Objection as  
18 to form, but all right.

19 A. Yes.

20 Q. And on most documents, I would  
21 say, you often appear as Manuel Almonte?

22 A. Just repeat that question.

23 Q. Sure. On most documents while  
24 you worked from the company from April 2011  
25 to April 2013, you were known as Manuel

1 N. ALMONTE

2 Almonte due to the arrangement you had to  
3 work with the company?

4 MR. WEINBERGER: Objection as  
5 to form, but go ahead.

6 A. But he also worked.

7 Q. Right. Can I have this marked  
8 as Plaintiff's Exhibit B, please. It's  
9 Bates number 749.

10 (Whereupon, warning document  
11 was marked as Plaintiff's Exhibit B  
12 for identification as of this date by  
13 the reporter.)

14 Q. Just take a look at this  
15 document, let me know when you're done.

16 A. (Witness complies).

17 Q. Have you seen this document  
18 before?

19 A. Yes.

20 Q. Can you read for me the name  
21 that's listed in, "Manager?"

22 A. "Manager, Ernesto Lopez."

23 Q. Is that you?

24 A. Nestor Almonte Lopez, but then  
25 they would also call me Nestor Lopez, so I

1 N. ALMONTE

2 would imagine they were referring to me.

3 Q. Can you tell me, is that your  
4 signature on the bottom of that document?

5 A. Yes, that's my signature.

6 Q. Whose signature is above it?

7 A. That's Charlie Klahr.

8 Q. By the way, what is this  
9 document?

10 A. This is a document of --  
11 advising, letting you know, about the  
12 employee Justino Rivera, when they're  
13 giving him a warning.

14 Q. So it's a warning?

15 A. Yes.

16 MR. VALLETTI: You had the work  
17 orders entered. Can I have those. I  
18 don't know if it was for --

19 MS. ALETOR: Yes, you have the  
20 set, they're for 437 Morris Park,  
21 Exhibit J.

22 Q. I'm going to turn your  
23 attention to Bates number 171, it's part of  
24 Exhibit J. I'm going to turn your  
25 attention to this name here, which appears



1 N. ALMONTE

2 a couple of times on the paper. Can you  
3 read the date for me on that document.

4 A. The document is May 15th, 2012.

5 Q. And this name that appears here  
6 on the first line that is completing the  
7 work order on the top there. Whose name is  
8 that?

9 A. Lopez. That's me -- written by  
10 me.

11 Q. Thank you.

12 A. Can I say something about that?

13 Q. I didn't ask a question.

14 MR. VALLETTI: I have no  
15 further questions.

16 MR. WEINBERGER: I have one  
17 follow-up. Just one more question  
18 for you.

19 MR. VALLETTI: It's my turn to  
20 question him.

21 MR. WEINBERGER: Yeah, but I  
22 can ask one more question.

23 MR. VALLETTI: Your time is  
24 finished, Stu.

25 MR. WEINBERGER: I'm asking him

1 N. ALMONTE

2 one more question, that's it.

3 MR. VALLETTI: You've reached  
4 your limit, Stu. I'm going to  
5 exhibit --

6 CONTINUED EXAMINATION BY

7 MR. WEINBERGER:

8 Q. I'm going to do this. I have  
9 one more question. I'm going from 00736,  
10 just related to this, one question, 00736  
11 to 00746.

12 (Whereupon, document was marked  
13 as Defendants' Exhibit T for  
14 identification as of this date by the  
15 reporter.)

16 Q. Quickly look through this, one.

17 A. Can I ask my lawyer --

18 Q. Sure, sure. I have one  
19 question, and then we're done.

20 MS. ALETOR: In the interest of  
21 time, why don't you look at this,  
22 it's the same, so he can look at  
23 this.

24 MR. VALLETTI: What's the one  
25 question, Stu?

1 N. ALMONTE

2 Q. In these documents, did you  
3 sign your name there as Manuel Almonte?  
4 That's it.

5 A. Yes, all these papers were  
6 signed by me with the name Manuel Almonte.

7 MR. VALLETTI: I have  
8 follow-ups. I'm sorry.

9 MR. WEINBERGER: Go ahead.

10 CONTINUED EXAMINATION BY

11 MR. VALLETTI:

12 Q. At 736, this is the first one,  
13 can you take a look at this signature  
14 there. And can you then switch to the page  
15 743.

16 A. (Witness complies).

17 Q. Are these the same signatures?

18 A. No.

19 Q. So did you sign one, your son  
20 signed the other?

21 MR. WEINBERGER: Objection as  
22 to form, but --

23 A. Looking at it clearly, yes.

24 MR. VALLETTI: I have nothing  
25 further.

1 N. ALMONTE

2 MR. WEINBERGER: Which one did  
3 your son sign and which one did you  
4 sign?

5 THE WITNESS: The one -- 36.

6 MR. VALLETTI: Correction. By  
7 Counsel, it's 736.

8 THE WITNESS: That one was  
9 signed by my son and the one ending  
10 in 43. I just put down his name.

11 MR. WEINBERGER: Okay.

12 MR. VALLETTI: All right.  
13 We're finished.

14 (Whereupon, at 5:54 P.M., the  
15 Examination of this Witness was  
16 concluded.)

17

18 \_\_\_\_\_  
NESTOR ALMONTE

19

20 Subscribed and sworn to before me  
21 this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_.

22

23

24 \_\_\_\_\_  
NOTARY PUBLIC

25

1 N. ALMONTE

2 E X H I B I T S

3 DEFENDANTS' EXHIBITS:

4	EXHIBIT	EXHIBIT	PAGE
5	LETTER	DESCRIPTION	
6	I	Time sheets	124
7	J	Work orders	125
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9		Stamped 363, 364, 365	
10	L	Document	149
11	M	Document	157
12	N	Document	158
13	O	Superintendent's	167
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16	Q	Document	175
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19	T	Document	207

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1 N. ALMONTE

2 PLAINTIFF'S EXHIBITS:

3 EXHIBIT EXHIBIT PAGE

4 LETTER DESCRIPTION

5 A Superintendent and 201

6 roving employee time

7 Sheets

8 B Warning document 204

9

10 I N D E X

11

12 EXAMINATION BY PAGE

13 MR. WEINBERGER 89, 296

14 MR. VALLETTI 189, 212

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N. ALMONTE

C E R T I F I C A T E

STATE OF NEW YORK                    )  
  :   SS.:  
COUNTY OF KINGS                    )

I, ANITA M. TROMBETTA, a Notary  
Public for and within the State of New  
York, do hereby certify:

That the witness whose examination is  
hereinbefore set forth was duly sworn and  
that such examination is a true record of  
the testimony given by that witness.

I further certify that I am not  
related to any of the parties to this  
action by blood or by marriage and that I  
am in no way interested in the outcome of  
this matter.

IN WITNESS WHEREOF, I have hereunto  
set my hand this 2nd day of March 2015.



---

ANITA M. TROMBETTA